

CLEEK'S COPY.

RECORD

SUPERIOR COPY SERVICE UNITED STATES

1940

INDUSTRIAL AND
MANUFACTURING OF THE UNITED STATES

HEAD MACHINE INC. ET AL

1940

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1947

No. 50

ROBERT E. HANNEGAN, INDIVIDUALLY AND AS
POSTMASTER GENERAL OF THE UNITED STATES,
PETITIONER

vs..

READ MAGAZINE, INC., ET AL

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE DISTRICT OF COLUMBIA

INDEX

| | Original | Print |
|--|----------|-------|
| Record from District Court of the United States for the District of Columbia..... | "A" | |
| Caption [omitted in printing]..... | "A" | |
| Complaint..... | 1 | 1 |
| Exhibit "A"—Announcement and published rules of contest [omitted in printing]..... | 23 | |
| Exhibit "B"—Notification mailed to persons who submitted correct solutions, July 3, 1945..... | 24 | 12 |
| Exhibit "C"—Announcement to contestants, Aug. 15, 1945..... | 25 | 14 |
| Exhibit "D"—Announcement to contestants, Aug. 17, 1945, enclosing appendage..... | 27 | 15 |
| Exhibit "E"—Announcement to contestants, Aug. 18, 1945..... | 30 | 18 |
| Exhibit "F"—Letter from Solicitor of Post Office De- partment, June 26, 1945, and enclosed specification of charges..... | 32 | 20 |
| Exhibit "G"—Fraud order issued by Postmaster General, Oct. 1, 1945..... | 35 | 22 |
| Affidavit of Henry Walsh Lee..... | 36 | 23 |
| Temporary restraining order [omitted in printing]..... | 49 | |

| | Original Print |
|--|----------------|
| Record from District Court—Continued | |
| Motion for temporary restraining order and for preliminary injunction, &c. [omitted in printing] | 51 |
| Extension of temporary restraining order until and including October 19, 1945, &c. [omitted in printing] | 54 |
| Affidavit of Vincent M. Miles in opposition to motion for preliminary injunction | 55 31 |
| Exhibit A-8—Memorandum for the Postmaster General embodying a finding of fact and recommending the issuance of a fraud order, dated September 17, 1945 | 68 33 |
| Affidavit of John J. Gregory | 92 43 |
| Order of Justice Holtzoff, dated October 19, 1945, continuing stay | 94 44 |
| Motion of the defendant to dismiss the complaint or, in the alternative, for summary judgment | 96 46 |
| Affidavit of Daniel B. Maher in support of defendant's motion for summary judgment | 97 46 |
| Plaintiffs' motion for summary judgment | 98 47 |
| Affidavit of Leonard S. Melrod | 100 48 |
| Opinion of Justice Holtzoff | 102 49 |
| Order of Justice Holtzoff, dated November 27, 1945, continuing impounding order | 114 56 |
| Judgment granting permanent injunction, filed November 27, 1945 | 116 57 |
| Notice of appeal [omitted in printing] | 118 |
| Order extending time [omitted in printing] | 119 |
| Order as to original documents [omitted in printing] | 120 |
| Designation of record [omitted in printing] | 121 |
| Supplemental designation of record [omitted in printing] | 123 |
| Clerk's certificate [omitted in printing] | 124 |
| Proceedings in United States Court of Appeals for the District of Columbia | 125 58 |
| Minute entry of argument | 125 58 |
| Opinion, Prettyman, J | 126 59 |
| Dissenting opinion, Edgerton, J | 130 62 |
| Judgment | 135 68 |
| Designation of record [omitted in printing] | 135 |
| Clerk's certificate [omitted in printing] | 136 |
| Proceedings before Solicitor of Post Office Department | 138 69 |
| Excerpts from testimony of Francis D. Boyle | 138 69 |
| Paul Sarazen | 157 85 |
| Government's exhibits: | |
| 1-B Sunday News, April 1, 1945, p. 5 | 160 87 |
| 2 Advertisement for All-American Puzzle Contest, appearing in "The American Weekly," August 16, 1942 | 161 87 |

| | |
|---|----------------|
| Proceedings before Solicitor of Post Office Department—Con. | Original Print |
| Government's exhibits—Continued | |
| 2-A Advertisement for All-American Puzzle Contest appearing in Columbia, South Carolina, newspaper, "The State," August 16, 1942 | 162 87 |
| 2-E Form letter from Contest Editor | 163 87 |
| 2-F Letter from Contest Editor, dated January 5, 1943 | 164 88 |
| 2-F-1 "Official Notice," containing tie-breaking puzzles, pp. 1 and 2 | 165 89 |
| 2-G Letter from Contest Editor, dated February 17, 1943 | 167 89 |
| 2-G-1 "Final Tie-Breaking Puzzles," p. 1 | 170 91 |
| 2-H Letter from Contest Editor, dated April 16, 1943 | 171 91 |
| 2-I Letter from Contest Editor, dated April 23, 1943 | 174 94 |
| 2-K-3 Form letter used in answering inquiries of con- testants | 176 95 |
| 2-J Announcement of winners of All-American Contest | 177 96 |
| 3 Letter from Contest Editor | 178 96 |
| 4 Letter from Contest Editor to "All Con- testants" | 179 97 |
| 5 Letter from Contest Editor to "Dear Friend" | 180 98 |
| 6 Letter from Contest Editor to "Dear Friend" | 181 99 |
| 7-7-A Letter from Contest Editor to "Dear Friend", to 7-F enclosing a mimeographed set of standard replies for the answering of questions asked by contestants | 183 101 |
| 8 Letter from Contest Editor | 191 110 |
| 9 Letter from Henry Walsh Lee to "Dear Con- testant" | 193 111 |
| 10 Letter from Adele M. Beckman, dated August 28, 1945 | 194 112 |
| 10-C Letter from Contest Editor to Mrs. Beckman, dated July 3, 1945 | 195 113 |
| 10-D Letter from Contest Editor to Mrs. Beckman, dated July 5, 1945 | 196 115 |
| 10-E Letter from Contest Editor to Mrs. Beckman, dated July 6, 1945 | 197 116 |
| 10-F Letter from Mrs. Beckman to Contest Editor, dated July 12, 1945 | 199 118 |
| 10-G Letter from Contest Editor to Mrs. Beckman, dated August 15, 1945 | 200 119 |
| 10-H Letter from Contest Editor to Mrs. Beckman, dated August 16, 1945 | 202 121 |
| 10-I Letter from Contest Editor to Mrs. Beckman, dated August 17, 1945 | 203 122 |
| 10-J Appendage for form for specifying prize eligibility | 206 125 |

| | | |
|--|----------|-------|
| Proceedings before Solicitor of Post Office Department—Con. | Original | Print |
| Government's exhibits—Continued | | |
| 10-K Letter from Contest Editor to Mrs. Beckman, dated August 18, 1945 | 210 | 128 |
| 11-C Form for specifying prize eligibility | 212 | 130 |
| 11-F Letter from Contest Editor to Martin Wöhl, dated August 18, 1945 | 214 | 133 |
| 12-A Letter from Contest Editor to Mrs. A. D. Mott, dated July 3, 1945 | 215 | 134 |
| 12-B Special announcement of contest for those con- testants who did not solve correctly the original group of puzzles | 216 | 135 |
| 12-D Letter from Contest Editor to Mrs. A. D. Mott, dated July 6, 1945 | 217 | 137 |
| Order allowing certiorari | 219 | 139 |
| Stipulation as to printing of record | 220 | 139 |

1. IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF COLUMBIA

Civil Action No. 30926

READ MAGAZINE, INC., LITERARY CLASSICS, INC., AND PUBLISHERS SERVICE COMPANY, INC., HENRY WALSH LEE, AND JUDITH S. JOHNSON, 75 WEST STREET, NEW YORK, N. Y., PLAINTIFFS

ROBERT E. HANNEGAN, INDIVIDUALLY AND AS POSTMASTER GENERAL OF THE UNITED STATES, PENNSYLVANIA AVENUE, BETWEEN 12TH AND 13TH STREETS, NW, WASHINGTON, D. C., DEFENDANT.

[File endorsement omitted.]

Complaint for injunction

Filed Oct. 2, 1945

1. Plaintiff, Read Magazine, Inc. is a corporation organized and existing under the laws of the State of New York, having its principal office and place of business at 75 West St., New York, N. Y. Said plaintiff is now, and during all other times herein mentioned was, primarily engaged in the business of editing and publishing a magazine called "Read" and a magazine called "Facts." Plaintiff is a subsidiary of Publishers Service Company, Inc.

2. Plaintiff, Literary Classics Inc., is a corporation organized and existing under the laws of the State of New York, having its principal office and place of business at 75 West Street, New York, N. Y. Said plaintiff is now, and during all other times hereinafter mentioned was, primarily engaged in the business of editing, publishing and selling books of classical literature. Said plaintiff is a subsidiary of Publishers Service Company Inc.

3. Plaintiff, Publishers Service Company is a corporation organized and existing under the laws of the State of New York, having its principal office and place of business at 75 West Street, New York, N. Y. Said plaintiff is now, and during all other times hereinafter mentioned was, primarily engaged in the business of promoting the circulation of newspapers, the sale of books and magazines published by its subsidiaries, and the sale of phonograph records manufactured by its subsidiary.

4. Plaintiff, Henry Walsh Lee is the editor of "Read" and "Facts" magazines, is Vice President of plaintiff, Read Magazine Inc., and a Vice President of Publishers Service Company Inc.

5. Plaintiff, Judith S. Johnson, is an employee of Read Maga-

zine Inc. and is the Contest Editor of the "Hall of Fame" contest hereinafter described.

6. Defendant is the duly appointed, confirmed, and qualified Postmaster General of the United States, with offices on Pennsylvania Avenue between 12th and 13th Streets Northwest, Washington, D. C.

3. 7. This action is brought to enjoin defendant from enforcing a so-called "fraud order" issued by him under purported authority of Title 39 U. S. C., Sections 259 and 752 (Sections 3929 and 4041, Revised Statutes, as amended) directing the Postmaster at New York, N. Y., to stamp fraudulent and return to senders all mail addressed to plaintiffs, their officers, and agents as such, and further directing postmasters throughout the United States to refuse to certify or to pay any money orders payable to the order of plaintiffs.

8. The matter in controversy between plaintiffs and defendant exceeds, exclusive of interest and costs, the sum or value of \$3,000 and arises under the constitution and laws of the United States as hereinbefore and hereinafter set forth.

9. Publishers Service Company Inc. (hereinafter referred to as Publishers) has, for a number of years, engaged in the promotion of circulation of newspapers and magazines and sale of books and phonograph records published or manufactured by its subsidiary companies.

Publishers is the leading circulation promotion company in the newspaper field. It has conducted approximately 150 contests for the principal American newspapers for the purpose of promoting their circulation. Many of such contests essentially resemble the contest hereinafter described, which was sponsored by 4 "Facts" magazine and plaintiff Literary Classics, Inc. and promoted by Publishers. In addition to promoting the circulation of newspapers Publishers, through its subsidiaries, publishes books and magazines, and manufactures phonograph records which it has sold directly at retail or in connection with sales promotion contests.

10. In April 1945 "Facts" magazine and Literary Classics, Inc., sponsored the so-called "Hall of Fame" contest and offered same to the public through national newspaper advertisement in more than 300 American newspapers and in booklets on newsstands throughout the United States. Its avowed purpose, as stated in its announcement, is a means of popularizing the Literary Classics Book Club, organized by Literary Classics, Inc., which is a subsidiary of Publishers.

11. Plaintiffs, as sponsors and promoters of the "Hall of Fame" contest, offered the contest to the public with a first prize of \$10,000 and 499 other prizes totaling \$17,500 to the winners of the contest.

A typical copy of the announcement and the published rules is attached hereto as Exhibit A and made part hereof. The rules of the contest printed in said Exhibit A provided in substance:

(a) A group of 80 rebus puzzles was offered for solution (Rule 2).

(b) The 80 puzzles submitted for solution were divided into 20 series of 4 puzzles each (Rule 4).

5 (c) Each series of puzzle solutions submitted was required to be qualified by the remittance of 15 cents in coin (Rule 8).

(d) Solutions so qualified for the 20 series of puzzles (80 puzzles) were required to be postmarked and mailed to the sponsor not later than June 16, 1945 (Rule 5).

(e) In case of ties in the solution of the 80 puzzles, a first and if necessary, a second tie-breaking Group of puzzles divided into series exactly like the first Group, were provided for. In case a second tie-breaking Group of puzzles should be necessary contestants were required to accompany their solutions with a letter on the subject "The Puzzle I found Most Interesting and Educational in This Contest" (Rule 9).

(f) Only in case ties exist after the final tie-breaker will the letter be considered. All tie-breaking series of solutions were required to be qualified by the remittance of 15 cents in coin with each series of four solutions (Rules 9 and 8).

12. To prevent misunderstanding on the part of contestants regarding the probable length of the contest or the amount which might be required to be paid for participation therein the sponsors made the following assertion in Rule 9 of the official rules of the contest:

"Upon entering the contest, the entrant is asked to realize that the sponsor anticipates that a large number of persons may enter the contest and that a large number may solve one, two or all three of the Groups of puzzles. * * *"

13. A total of 189,650 persons entered the contest. Of this number 100,315 lost out by failing to submit solutions to all of the Group of 80 puzzles. Of the 89,335 persons remaining in the contest approximately 53,501 submitted solutions to the 80 puzzles but failed to solve the 80 puzzles correctly and thereby lost out and were eliminated. Each of these received, as promised by the rules, a book published for the month of July by the Literary Classics Book Club. The book was a special Literary Classics edition of "The Way of All Flesh," by Samuel Butler. The entire typography was designed and set especially for this edition, and new original copyrighted material was written for this edition by Carl Van Doren, Burton Rascoe, and Robert Van Gelder. End papers and illustrations were

created for the edition by William Sharp. In every respect, the book fully justifies the retail price of \$3 at which it is sold.

14. From the field of 189,650 entrants in the contest approximately 35,834 persons submitted correct solutions to the 80 puzzles and were therefore qualified to compete in the first tie-breaker. Participants in this first tie-breaker who submitted solutions to the 80 puzzles therein provided for whether correct or incorrect, have received the August book published by the Literary Classics Book Club. That book is "Pride and Prejudice," by Jane Austen. This book, like "The Way of All Flesh" heretofore described, is an especially designed edition with new copyrighted introductory matter, new typography and new illustrative material and in every way, justifies the retail price of \$3 at which it is sold.

15. About 1,400 of the original entrants in the contest were delinquent in sending in their solutions to the puzzles and were eliminated from the contest. Refunds of all remittances were mailed to such persons. From the stand-point of percentages, 81% of the people who entered the contest have been eliminated or have lost out by failure either to submit or to solve all the Group of 80 puzzles.

16. Notification was mailed to approximately 35,834 persons (19% of the field of entrants) who submitted correct solutions to the 80 puzzles. This notification informed the contestants that they have correctly solved the 80 puzzles and that they thereby became eligible to compete in the tie-breaker, but each contestant was advised that the mere fact that he had succeeded in solving the puzzles in the contest did not mean that he had won a prize or that he would win a prize. A copy of said notification is attached hereto as Exhibit B and prayed to be read and considered as part hereof. In conjunction with the announcement to the contestants who had successfully solved the 80 puzzles the sponsor offered to double the original prize if the contestant would purchase the four books of the Literary Classics Book Club to be issued, beginning with the month of October 1945, or to increase the original prizes by 50% if the contestant would purchase the two books of the Literary Classics Book Club beginning with the book for October 1945.

17. The contest has reached the stage where the solution to the first tie-breaker have been received and have been checked.

18. The approximately 54,000 contestants who lost out by failing to solve the 80 puzzles correctly were offered a consolation contest, with entirely separate prizes, these 500 added prizes totaling \$17,500 and being confined exclusively to the approximate 54,000 persons who had been eliminated from any opportunity to win a prize in the original contest by virtue of their failure to

solve the 80 puzzles correctly. The puzzles used for the consolation contest were the tie-breaking puzzles designed for the original contest. All rules of the original contest applied to the new consolation contest except that the entrants in the consolation contest all started fresh with the first tie-breaking group of puzzles. The opportunity to win double the amount of the prizes by purchasing continuing memberships in the Literary Classics Book Club was offered to entrants in the consolation contest. Approximately 26,000 persons entered the consolation contest. Of this number, 13,725 lost out by failing to solve the puzzles, and there now remain approximately 12,250 persons who are eligible to compete in the final tie-breaking puzzles which have not yet been issued. A total of \$35,000 in prizes will be paid to the winners among these 12,250 persons in the consolation contest:

9 19. On August 15, 1945, in connection with notification sent to those contestants in the original contest who had solved correctly all 80 puzzles of the first tie-breaking group and who had scores of 160 correct solutions it was announced that the sponsor would pay up to four times the value of the original prizes offered to those who became winners of prizes, provided those winners purchased Book Club memberships up to a period of one year. Thus, it became possible for the winner of first prize to win as much as \$40,000. Plaintiff, as sponsor, made it clear in connection with said offer that the full amount of the original prizes offered would be paid irrespective of whether or not any contestant decided to avail himself or herself of the opportunity to compete for the larger amounts. Plaintiff further made it clear to the contestants that whether or not the increased prize offer was accepted by the contestants, they would add the amount thereof to the list of prizes, thereby increasing the number of persons eligible to win a prize. Plaintiff also made it clear that a large number of persons were tied. A copy of the letter of August 15, 1945 aforesaid is attached hereto as Exhibit C and prayed to be read and considered as part hereof.

20. In the letter of the sponsors dated August 17, 1945, a form was sent to each contestant, with spaces on which the contestant was asked to indicate whether or not he or she wished to compete for the added prizes or wished to compete only for the prizes for which he or she was at that time eligible to compete. In view of the fact that the contestant had already filled in a previous form in connection with the double prize offer, the offer of August 15, 1945 was presented by means of a form described as "Appendage for Form for Specifying Prize Eligibility." The letter enclosed with the Appendage is a cir-

cular letter of three pages which makes it clear to the contestant that:

- (a) the contestant is not under any obligation whatever to purchase more books;
- (b) that the purchase of books cannot cause the contestant to win a prize;
- (c) that "winners will be selected solely in accordance with the rules on the basis of the final tie-breaking requirements of the contest as stated in my letter of August 15th * * * the prizes would be awarded on the basis of the submissions to the final tie-breaking puzzles and if necessary the letter in accordance with the final tie-breaking requirements of the contest";
- (d) that there is a deadline of Midnight, August 25th for the acceptance of the increased prize offer, and that no contestant will be permitted to increase his or her prize eligibility after that date;
- (e) that the sponsor's purpose in appropriating this large amount of money for prizes is to sell more of the Book Club books in order to obtain the advantage and economies that accrue from large production for a large membership.

A copy of the aforementioned letter is attached hereto as Exhibit

D and prayed to be read and considered as part hereof.

11. The letter is a model of honesty and candor in direct mail advertising. It tells the truth, clearly and unmistakably. Frankly, its purpose is to sell books and it so states.

21. The letter of August 17, 1945, from the sponsors to each contestant accompanied the Appendix aforementioned and was a sincere effort by plaintiffs as sponsors to avoid the ill-will of contestants. Plaintiffs knew from their long experience that should a contestant buy a lot of books with which he was dissatisfied, plaintiffs would not only lose his good will but would incur the burden and expense of making refunds to such a dissatisfied purchaser. Plaintiffs did not intimidate the contestant or suggest that his investment would be jeopardized unless he accepted the offer.

22. Further emphasizing the sponsors' honesty, ethics and complete candor in its dealings with the public is its circular letter dated August 18, 1945, which clearly falls into the category of square-dealing salesmanship. In this letter the contestant is once more referred to the opportunity to compete for the increased prizes up to a first prize of \$40,000, but once more the sponsor makes it clear that "we want you to fully understand your status as defined in my letter of August 15th." A copy of the letter of August 18, 1945 aforementioned is attached hereto as Exhibit E and prayed to be read and considered as part hereof.

12 23. From the very moment the contestant entered the contest he was dealt with frankly and honestly. Contestants who solved the group of 80 puzzles correctly were notified that their answers were correct and that they were tied with other contestants. In no way was the contestant given to understand that his tieing status meant that he would win a prize. The letter which announced that the contestant was tied and that the tie-breaking puzzles were being forwarded, said in part:

"Facts Magazine desires to take every precaution to avoid all possible disappointment or ill will on the part of contestants. For this reason, we wish to make it clear to you that the receipt of this tie-breaker by you does not mean that you have already won a prize or that you are certain to win First Prize, Second Prize or any other prize in this contest. If you should win the \$10,000 First Prize or any other prize, you will be definitely notified of the fact by us as soon as possible. Meanwhile, in submitting solutions to the tie-breaker, to avoid any and all possibility of disappointment, please consider the tie-breaker strictly as provided for in the rules, and not as assurance by us, either direct or implied, that you are going to win the \$10,000 First Prize, Second Prize, or any other prize in the contest."

The language of the foregoing letter cannot be misunderstood. The contestant is told with absolute honesty and candor that the fact that he is tied does not mean that he has any assurance, direct or implied, from plaintiffs that he is going to win any prize whatever in the contest; furthermore, that he is to consider the tie-

breaker strictly as provided for in the rules. The rules de-
13 vote seventeen lines of type to the provisions for breaking ties. There is no basis for the claim that plaintiffs either concealed the tie-breaking provisions of the contest or represented them as anything other than what they were. The excerpt from the announcement letter of the first tie-breaker, as quoted above, was also printed on the front page of the circular containing the first tie-breaking group of 80 puzzles. There was no deception, no concealment, no withholding of facts from the contestant. The contestant was never promised anything that was not delivered, and was never given any impression that was in any manner contrary to absolute truth and fact.

24. All submissions of solutions to the puzzles have been or are being judged by the Reuben H. Donnelley Company, the leading company engaged in this business in the United States. The Donnelley Company is recognized nationally as the contest judging organization to which the largest national advertisers in America entrust the handling and judging of their contests. The Donnelley Company is likewise the printer of "Time" and "Life".

magazines and the compiler and printer of the New York Telephone Directory. No judging of submissions is done by plaintiffs or by any company or individual associated with plaintiffs. The judging is being done in accordance with a contract entered into between plaintiff Publishers Service Company, Inc., and Reuben H. Donnelley Company. The Contract between Publishers

14 Service Company, Inc. and Reuben H. Donnelley Company was entered into after submission to the Donnelley Company of a copy of the official rules and advertising. The judging is done with the highest degree of care by thoroughly competent employees of the Donnelley Company.

25. The announcement of the many other contests conducted by Publishers, together with the rules and complete details of the manner in which each such contest was to be conducted have been reviewed by hundreds of the editors of newspapers and by their counsel, and in many instances the publishers have presented the announcement, the rules of the contest and all facts concerning the manner in which the contest was to be conducted to officials of the Post Office Department for approval. In no instance has there ever been the slightest suggestion that any of the contests conducted by Publishers and such newspapers was tainted with the fraud now attempted to be imputed; nor has there ever been an instance where any of the contests ever conducted by Publishers have been denied the use of the mails.

26. On or about June 26, 1945, the Solicitor of the Post Office Department issued a citation directing plaintiffs Henry Walsh Lee, Judith S. Johnson, and Facts Magazine to show cause at a hearing before the Solicitor why a fraud order should not be issued against them. The citation charged that plaintiff Publishers Service Company, Inc., operating under the respondents' names, was engaged in conducting a scheme for obtaining money through the mails in violation of 39 U. S. C., Sections 259
15 and 732, in connection with a so-called "Hall of Fame" contest, upon pretenses, representations, and promises contained in advertisements and printed matter sent through the mail to the effect:

(a) that said "Hall of Fame" contest is a puzzle contest in which the prizes will be awarded for correct solution of puzzles;

(b) that there exists a probability that the contestant will become a prize-winner merely by submission of correct solutions to the first group of 80 puzzles;

(c) that the only fees to be paid by the contestant, even though it becomes necessary that he participate in the later phases of the contest, are those fees which he submits with his solution to the first series of puzzles.

A copy of the aforementioned letter to defendant from the Solicitor and of the citation appended thereto is attached hereto as Exhibit F and prayed to be read and considered as part hereof.

27. Respondents in the proceeding answered the citation with a general denial of the charges.

28. A hearing was had on September 4 and 5, 1945, before an Assistant Solicitor of the Post Office Department, at which time evidence was introduced on behalf of the government and by plaintiffs and a transcript thereof made which transcript is made part hereof by reference and will be submitted to the Court at the proper time.

29. The Solicitor of the Post Office Department made a finding of fact and recommendation to the defendant Postmaster General that a fraud order be issued against the respondents in the proceeding. The defendant accepted such finding and recommendation of the Solicitor and issued the fraud order against such respondents which is now under attack. A copy of said fraud order is attached hereto as Exhibit G and prayed to be read and considered as part hereof.

30. Said fraud order now sought to be enjoined was not fairly arrived at, has no substantial evidence to support it, and is palpably wrong and therefore arbitrary. The announcement of the contest, the rules prescribed in connection therewith and the manner in which the contest is being conducted are frank, clear, and easily intelligible. No representations were made that prizes would be awarded for the correct solution of puzzles only; no representations were made that a probability existed that any contestant would become a prize winner merely by the submission of correct solutions to the first Group of 80 puzzles; and no representations were made that the only fees to be paid by the contestant, even though it became necessary that he participate in the later phases of the contest, would be those fees which he submitted with his solutions to the first series of puzzles. At the hearing leading up to the fraud order not a single contestant testified that the announcement of the rules of the contest was misleading and not a single contestant testified to support the government charges in the citation that the rules were

17 misleading, confusing, or fraudulent. On the contrary, when Inspector Boyle, the Government's only witness, was asked whether or not plaintiffs, as sponsors and promoters, had fulfilled all promises made by them he frankly admitted that they had done so. Plaintiffs, as sponsors and promoters, promised to pay prizes to those persons who submitted solutions to 80 puzzles by June 16, 1945, and to break ties in such contest by one and if necessary two tie-breakers, the second to be accompanied by a letter. The contestant by entering the contest undertook to solve

these puzzles and to write a letter as well as to pay stipulated fees. The plaintiffs, as sponsors and promoters, undertook to pay duplicate prizes in the event of final ties. This was a contract valid as to plaintiffs, as sponsors and promoters, and as to each contestant. The contract has been or will be lived up to by plaintiffs in all particulars.

31. Read Magazines Inc. has a very substantial investment in the two magazines published by it, "Read" and "Facts." Through the expenditure of large sums of money the circulation of these magazines has reached 250,000 and 225,000 copies per month, respectively. Vastly increased circulation is in prospect with the lifting of War Production Board paper restrictions. Plaintiff, Henry Walsh Lee, is the editor of both these magazines. Much correspondence through the mail is addressed to him as well as to "Read" and "Facts" magazines, which has no relation to the contest sponsored by "Facts" magazine. Literary Classics Inc., for whose benefit the contest was conducted, has been engaged for many years in the publication of outstanding classical literature. It has published and sold approximately 3,513,000 copies of the works of Mark Twain, approximately 3,070,000 copies of the works of Charles Dickens, approximately 2,213,000 volumes of the "Masters Standard Library of Classics" consisting of 100 volumes of classical literature, and approximately 853,000 sets of Nelson's Encyclopedia, consisting of 30 volumes each. Publishers Service Company Inc., in addition to its newspaper circulation promotional activities, has been instrumental in the sale of classical literature and has sold approximately 2,000,000 albums of symphonic phonograph records manufactured by the R. C. A. Victor Corporation and recorded by leading orchestras and conductors in the United States. The business of plaintiffs is wholly legitimate and has resulted in the dissemination of tremendous quantities of excellent literature and music at minimum prices.

32. Unless the instant fraud order is enjoined, plaintiffs will not only lose the sum of \$936,843.71 heretofore incurred as an expense of sponsoring the contest since they would be compelled to return all receipts heretofore collected from contestants, but plaintiff corporations will suffer irreparable injury in the ruin of their business of publishing magazines and books, and manufacturing phonograph records. Not only will such fraud order result in the destruction of plaintiff corporations' business; but it will deprive approximately 27,000 persons, presently competing in the contest, of their very substantial property right to participate in the distribution of \$105,000 in prizes. Such deprivation will result without any hearing being accorded to them and without any reimbursement for the time and effort

expended by them in taking part in the competition. Such consequence will have a disastrous effect upon plaintiff corporations' good will, and will deprive such companies of a very substantial potential market for their merchandise.

33. Publishers and its subsidiaries have long been engaged in a legitimate promotional business and its services have been utilized by outstanding and responsible newspapers throughout the United States. The advertising data announcing the contest here in issue and stating the rules was accepted by over 300 outstanding newspapers. Not one of the persons, who are responsible for material appearing in their publications, complained of the slightest ambiguity in the announcement of the rules, of the contest. Publishers and its associated companies have made a vast investment in the conduct of its business which is being put in jeopardy by the fraud order herein under attack. Should the fraud order be sustained not only will the instant contest fail, with very substantial losses to plaintiff, as sponsor thereof, but the consequences to Publishers' other business will be catastrophic.

20 34. The control sought to be exercised by the defendant over the business and affairs of plaintiffs by the issuance of the instant fraud order is violative of the First Amendment to the Federal Constitution, in that it abridges freedom of speech on the part of plaintiffs as sponsors and promoters of the contest and imposes upon them defendant's arbitrary views of what may or may not be said in advertising its contests and how it must be said. The control sought to be applied to plaintiffs constitutes censorship of the most arbitrary and capricious type which, if generally applied, would result in barring from the mails a very large percentage of all national advertising. The instant fraud order not only deprives plaintiffs of the freedom of speech guaranteed by the Constitution, but is a threat to the existence of the guarantee itself.

Wherefore the premises considered, plaintiffs pray that:

1. This honorable Court issue a subpoena to the defendant directing him to appear herein and answer the allegations of this complaint.

2. This Court issue a temporary restraining order and a preliminary injunction restraining and enjoining defendant, his agents, servants, and employees, pending a final hearing and determination of this cause, or until further order of the Court
(a) from enforcing or attempting to enforce said fraud order

21 and from interfering with the right of plaintiffs to receive mail addressed to them or to make use of the money-order facilities and services of the Post Office Department and
(b) from in any way interfering with the normal conduct of their

business as the consequence of the issuance of said fraud order.

3. Upon the final hearing and determination of this cause, this Court issue a permanent injunction enjoining defendant, his agents, servants, and employees from (a) directly or indirectly doing, or attempting to do, any act or thing in pursuance of said fraud order or enforcing or attempting to enforce said fraud order and (b) from in any way interfering with the normal conduct of plaintiffs' business as the consequence of the issuance of said fraud order.

4. For such other and further relief as to the Court may seem proper.

READ MAGAZINE INC.,

By HENRY WALSH LEE, Vice-President.

LITERARY CLASSICS, INC.,

By ESTHER FERTEL, Secy.-Treas.

PUBLISHERS SERVICE COMPANY, INC.,

By ESTHER FERTEL, Secy.-Treas.

HENRY WALSH LEE.

Mac. Asbill,

MAC ASBILL,

1616 K St. NW.

JNO. W. BURKE, JR.

Attorneys for Plaintiffs.

Of Counsel:

CUMMINGS & STANLEY.

22 [Duly sworn to by Henry W. Lee; jurat omitted in printing.]

24 Exhibit "B" to complaint

A DIVISION OF READ MAGAZINE, INC.

FACTS

THE MAGAZINE MORE FASCINATING THAN FICTION

PUBLISHED MONTHLY BY FACTS PUBLISHING COMPANY

Editorial and General Offices

75 WEST STREET, NEW YORK 6, N. Y.,

July 3, 1945.

Tie-Breaking Puzzles Forwarded by Registered Mail

It gives us great pleasure to advise you that the solutions you submitted in our Puzzle Contest were adjudged correct in their entirety.

In extending our congratulations, we feel sure you will be interested in knowing that many thousands of persons who competed against you either missed one or more of the puzzles or dropped out of the contest entirely. Among the puzzles which contestants found the more difficult were Nos. 39, 40, 59, 63. Contestants who submitted all 80 correct solutions are tied.

By Registered Mail a tie-breaking group of puzzles will be forwarded to you for solution in accordance with the rules of the contest. Ten thousand dollars is the amount which we will pay to the tying contestant who becomes the First Prize Winner, as provided in the rules. As a tying contestant, you have an opportunity to become the winner of the First Prize.

Facts Magazine desires to take every precaution to avoid all possible disappointment or ill-will on the part of contestants. For that reason, we wish to make it clear to you that the receipt of this tie-breaker by you does not mean that you have already won a prize or that you are certain to win First Prize, Second Prize or any other prize in this contest. If you should win the \$10,000 First Prize or any other prize, you will be definitely notified of that fact by us as soon as possible. Meanwhile, in submitting solutions to the tie-breaker, to avoid any and all possibility of disappointment, please consider the tie-breaker strictly as provided for in the rules, and not as assurance by us, either direct or implied, that you are going to win the \$10,000 First Prize, Second Prize, or any other prize in the contest.

Within the next day or two you may expect to receive by Registered Mail the tie-breaking puzzles. Full instructions will be printed with the tie-breaking puzzles, as to the date for submitting your tie-breaking solutions.

With all good wishes, and again congratulating you, we remain
Very sincerely yours,

FACTS MAGAZINE,
By JUDITH S. JOHNSON,
Contest Editor.

JSJ:ac.

A DIVISION OF READ MAGAZINE, INC.

FACTS

THE MAGAZINE MORE FASCINATING THAN FICTION

PUBLISHED MONTHLY BY FACTS PUBLISHING COMPANY

Editorial and General Offices

75 WEST STREET, NEW YORK 6, N. Y.,

August 15, 1945.

It is a pleasure to notify you that you made a perfect score of 80 correct solutions on the first Group of tie-breaking puzzles. Your total score in the contest at this point is 160 correct solutions, and you still remain tied with contestants who have scores of 160 identical with your own.

The final tie-breaking puzzles are now being prepared. The prize winners will be determined after those contestants with present scores of 160 correct solutions have received and have submitted their solutions to the final tie-breaker accompanying them with the letter as provided by the Official Rules.

We believe we have delightful news for all contestants who, like yourself, now have scores of 160 correct solutions and are now eligible to compete in the final tie-breaking phases of the contest. Here is the news: we are going to make it possible for the First Prize Winner to receive as much as \$40,000; 2nd Prize Winner \$8,000; 3rd Prize Winner \$4,000; with all 497 other prizes quadruple the original amounts offered.

While we are sure that you are happy to know that you have solved 160 puzzles correctly thus far, and are now in position to go into the final tie-breaking phases of the contest, Facts Magazine desires to continue to take every precaution within its power to prevent disappointment or ill will among those who fail to win prizes.

Therefore, please let me again make clear, just as I did when sending you the first Group of tie-breaking puzzles, that this letter is not to be interpreted by you as meaning that you have already won the First Prize or any prize at all.

26 Please understand that your status is strictly this: It is possible that you may win First Prize, or one of the other prizes, but this possibility must be based on your submissions to the final tie-breaking requirements of the contest. Also, realize at the same time that the final tie-breaking puzzles will be by far the most difficult puzzles presented in the contest and that you are competing with a very large number of very able competitors. Some one among the many contestants (perhaps it may be you

or it may be someone else) who now has a present score of 160 correct solutions will ultimately win First Prize in this contest, and this will be determined by the final tie-breaking requirements as provided in the rules, but Facts Magazine does not want any contestant to be under the impression that he or she is certain to win any prize or that a very small number of people are tied.

We urge you to compete seriously and diligently in the final tie-breaking phases with our assurance that every possible means has been provided to give your submissions careful, accurate, efficient attention, and that if you are entitled to win you shall win, at the same time realizing that this is a contest among a large number of contestants and that the only thing that the sponsor can promise is that your entry will be given the identical, fair, careful attention of every other entry and that the prizes will be paid to the rightful winners.

It is our great desire to conduct this contest so fairly and so efficiently that whether you win as much as \$40,000.00 or whether you win no prize whatever, you nevertheless will always feel that Facts Magazine did everything within its power to make the facts clear to you, and to give you a full, fair, honorable opportunity to win.

Your present eligibility to compete for the prizes as previously offered will be in no way affected by whether or not you elect to become eligible to compete for the increased prizes up to \$40,000.00 referred to in this letter.

Trusting that this contest may result in your entire pleasure and satisfaction, consistent with fairness to one and all, we remain

Very sincerely yours,

FACTS MAGAZINE,
By JUDITH S. JOHNSON,
Contest Editor.

JSJ: R**

27 *Exhibit "D" to complaint*

A DIVISION OF READ MAGAZINE, INC.

FACTS.

The Magazine More Fascinating Than Fiction

PUBLISHED MONTHLY BY FACTS PUBLISHING COMPANY

Editorial and General Offices

75 WEST STREET, NEW YORK 6, N. Y.

August 17th, 1945.

Enclosed you will find the Appendage referred to in my previous letter.

Your signature is required on the upper portion of the first page, and you are to check either line (A), (B), (C), (D), (E), (F), or (G) on the same page. To obtain eligibility to compete for a First Prize of \$40,000, \$35,000, \$30,000, \$25,000, \$20,000, or \$15,000 your signature is also required at the bottom of the first page and in the proper space provided on the following pages.

Please sign and designate as required, and return the Appendage as promptly as possible, but not later than Midnight, Saturday, August 25th.

Before executing, please read this letter and the Appendage very carefully. Your present status in Section (G) entitles you to receive \$10,000 if you are the winner of First Prize. Your preference expressed in this Appendage will determine whether 1st Prize if won by you will be in the amount of \$40,000, \$35,000, \$30,000, \$25,000, \$20,000, or \$15,000 or whether any other prize if won by you will be increased proportionately.

As you will note by the Appendage, we have added an extra \$35,000 to the \$35,000 prize fund already established, and we now stand ready to pay you either \$40,000; or \$35,000; or \$30,000; or \$25,000; or \$20,000; or \$15,000; or \$10,000 if you become the winner of First Prize under the provisions of the Appendage. The sole determining factor in increasing the amount of a prize is the length of membership in our Book Club effective with the October book. At the present time you are eligible to compete for a First Prize of \$10,000, the original amount of that prize as originally offered.

By the provisions of the enclosed Appendage you can establish your eligibility to compete for a First Prize of \$40,000, \$35,000, \$30,000, \$25,000, \$20,000, or \$15,000 instead of \$10,000.

As specified in the Appendage, you would receive \$40,000 as First Prize if same is won by you, if you send us your membership in the Book Club for twelve months beginning with the Book for October 1945.

28 Whether you wish to be in the Book Club for twelve months, ten months, eight months, six months, four months or two months is naturally something you must decide for yourself. As we said before, we stand ready to pay these huge added amounts to winners on the basis of the length of membership of the winners in the Book Club, our purpose in appropriating this large extra amount of money for prizes being to sell more of the Book Club books in order to obtain the advantages and economies that accrue from large production for a large membership.

In inviting contestants to compete for increased prizes through continuing to buy our Book Club books, we have this request to make. The request is simply this: Please do not spend your money for these books unless you really and truly want the books for your

own home library, or for gifts to friends. In other words, we hope no contestant will buy the books merely for the purpose of increasing a prize, and we ask that no contestant spend more money for books than that contestant would normally expect to spend over a period of months for the purchase of similar books.

We want to be certain that the contestant who qualifies for eligibility to compete for \$40,000, \$35,000, \$30,000, \$25,000, \$20,000, or \$15,000 by purchasing the books of the Book Club truly WANTS the books he or she is buying and therefore feels that he is getting good books for the money spent irrespective of whether or not that contestant wins the highest prize of \$40,000 or wins no prize at all.

It is our belief that the classics published by the Literary Classics Book Club are distinguished by beautiful binding, original introductions, superb art and typography. We believe these volumes are splendid cultural additions to a home library. In this spirit, we seek to sell our books only to persons who truly wish to own our classics and who under no circumstances will feel that they are spending money on something they do not want simply because the purchase involves eligibility to compete for cash prizes.

We also wish to make clear that you are not under any obligation whatever with regard to membership. You are now eligible to compete for any of 500 prizes of which First Prize is \$40,000. Whether you do or do not increase this eligibility to \$15,000, \$20,000, \$25,000, \$30,000, \$35,000, or \$40,000 will in no way have any effect on whether or not you win First Prize or an other prize. Your decision to increase the amount of the prize for which you are eligible to compete cannot CAUSE you to win. It can only increase the amount of a prize in case you become the winner of same. Winners will be selected solely in accordance with the rules on the basis of the final tie-breaking requirements of the contest as stated in my letter of August 15th in which I notified you that you had a score of 160 correct solutions and were tied with other contestants with the same score, and that the prizes would be awarded on the basis of the submissions to the final tie-breaking puzzles and if necessary the letter in accordance with the final tie-breaking requirements of the contest.

29. Please understand that there is no financial saving in prizes to us in the event no increased prizes are won, because any portion of the added \$35,000 which is not used in paying increased prizes will be used for extra prizes to be added after the 500th prize. Thus, the entire amount must be paid out by us in prizes in one form or another.

You will recall that I said in a previous letter that it would seem to me most unfortunate if any contestant who becomes a

prize winner had failed to take fullest advantage of this opportunity to win the maximum prizes. If you win First Prize it can mean the difference between receiving \$10,000, and receiving as much as \$40,000. As you will note in the Appendage, you can designate membership for two months, four months, six months, eight months, ten months or twelve months. Each two months of increased membership is equivalent to an additional \$5,000 in the amount of First Prize. We believe that those contestants who value classic literature in beautiful bindings will be delighted with this opportunity.

Upon executing the enclosed Appendage, please mail same back to us by return mail if possible, using the enclosed self-addressed special envelope. Check or money order enclosed should be made payable to FACTS Magazine. The Appendage must be mailed before Midnight, Saturday, August 25th, to establish increased prize eligibility.

Awaiting receipt of your Appendage, with your designation of Section (A) or (B) or (C) or (D) or (E) or (F) or (G), and wishing you all success in the contest, consistent with fairness to all, we remain

Most sincerely yours,

FACTS MAGAZINE,
By JUDITH S. JOHNSON,
Contest Editor.

JSJ/R.
encls.

30

Exhibit "E" to complaint

A DIVISION OF READ MAGAZINE, INC.

FACTS

THE MAGAZINE MORE FASCINATING THAN FICTION
PUBLISHED MONTHLY BY FACTS PUBLISHING COMPANY

Editorial and General Offices

75 WEST STREET, NEW YORK 6, N. Y.

August 18, 1945.

At this moment when the hearts of the world are gladdened by the end of the War, permit me to take this opportunity on behalf of FACTS Magazine to express our gratification to those who have participated in our contest and to voice the hope that your friendship for Facts, begun during World War II, will last through eternal years of peace.

It is in that spirit that we send this letter to you.

As you undoubtedly realize, Facts Magazine stands ready to pay as much as \$40,000.00 in cash to the winner of First Prize in our contest in accordance with the provisions in the Appendage forwarded to you yesterday.

Forty thousand dollars is truly a cash fortune. For many persons it can mean financial independence for life. For others, it can mean the money with which to buy a beautiful home, or a farm, or the money with which to start a business. Indeed, it is a cash prize of such huge amount, that it can bring tremendous happiness to practically anyone who wins it. Facts wants to be certain that overlooking this opportunity does not bring unnecessary disappointment to our contestants whom we consider as our good friends.

Between now and Midnight of Saturday, August 25th, you have the problem of deciding whether you wish the eligibility to compete for the maximum of \$40,000, or whether the amount for which you wish to become eligible to compete shall be \$35,000, \$30,000, \$25,000, or a lesser amount.

Because the prize is so large, and because it can be such an important event in the life of the winner, it seems appropriate to emphasize once again the spirit in which we make it possible for you to win this large amount.

First let me say that we hope you will decide to become eligible to compete for the maximum award that can be won in the contest, \$40,000, but at the same time we trust you will do so only if you really and truly want the Book Club books which you will receive for the money you pay.

We emphasize this point because, in order to become eligible to compete for \$40,000, \$35,000, \$30,000, or \$25,000 as First Prize with all other prizes increased proportionately over the original amounts offered, it is necessary to buy and pay for the various Book Club books as specified in the Appendage. If you really want the books, either for your own home library or as gifts for friends, then we will feel that the money you pay for same is well and wisely spent. On the other hand, we do not want any contestant to purchase the books merely to become eligible to compete for the large prizes, without any desire to possess the books for their own sake.

The entire spirit of this letter is to prevent disappointment or ill will on your part in the event you do not win the prize in which you have set your heart. As we have said before, it is possible for you to win as much as \$40,000 under the provisions of the Appendage, and we hope you will decide to become eligible to compete for that maximum amount. But we want you to fully understand your status as defined in my letter of August 15th,

and we want to discourage you from purchasing books that you really do not want merely because the purchase enables you to become eligible to compete for prizes up to \$40,000.

I am sure you understand that your eligibility to compete for the prizes as originally offered or for which you have already established eligibility is in no way affected by whether or not you decide to become eligible to compete for the maximum prize of \$40,000, or the lesser prizes of \$35,000, \$30,000, \$25,000, etc. We present the offer as a marvelous opportunity to those who sincerely want the Book Club books, and not as an obligation to any contestant in any sense of the word.

Permit me to point out once more that the Appendage must become part of your file in the contest, and must be mailed back to us, postmarked before Midnight, Saturday, August 25th.

As we said before, we hope you will decide to compete for the maximum prize that can be won, but we ask that you do so in the spirit of this letter. Our fondest hope is that at the end of the contest, irrespective of whether you receive a letter from us saying that we regret you did not win, or whether you receive a letter enclosing a check for \$40,000 or a lesser amount, you will always feel that you got full value in books for every penny you sent us, and that the contest was fine and fair in every way—and that you will always remain a true and lasting friend of

Very sincerely yours,

FACTS MAGAZINE.

By JUDITH S. JOHNSON,

Contest Editor.

JSJ: R*

32

Exhibit "F" to complaint

POST OFFICE DEPARTMENT.

OFFICE OF THE SOLICITOR,

Washington 25, D. C., June 26, 1945.

PUZZLE CONTEST, FACTS MAGAZINE; CONTEST EDITOR, FACTS MAGAZINE; JUDITH S. JOHNSON, CONTEST EDITOR; MISS J. S. JOHNSON, CONTEST EDITOR; CONTEST EDITOR; FACTS MAGAZINE; AND HENRY WALSH LEE, EDITOR IN CHIEF, FACTS MAGAZINE, NEW YORK, NEW YORK.

GENTLEMEN: Enclosed herewith is specification of charges that you are engaged in conducting a scheme or device for obtaining money through the mails by means of false or fraudulent pretenses, representations or promises, in violation of Sections 3929 and 4041 of the Revised Statutes, as amended (Secs. 259 and 732 of Title 39, U. S. Code), a copy of which is also enclosed.

These statutes authorize the Postmaster General to forbid the delivery of mail and the payment of money orders to any person or company found to be operating a scheme or device in violation thereof.

These charges will be taken up for disposition on July 16, 1945, at 10:00 o'clock, A. M., at a hearing before the Solicitor of the Post Office Department, in Room 3226, New Post Office Department Building, Washington, D. C. If an answer to the charges is made, it should be in writing, and three copies thereof should be submitted. It may be forwarded by mail or presented in person or by counsel at the time stated, when evidence in support thereof may also be submitted.

The case will be heard and disposed of at the time stated whether or not answer or appearance is made.

At the conclusion of the hearing or within such time thereafter as may reasonably be required therefor, counsel for the government and respondents will be afforded an opportunity to submit oral argument, briefs, and proposed findings of fact and of law, for consideration in connection with disposition of the charges. A verbatim report will be made of the hearing and a copy thereof furnished counsel for the government. Respondents will be permitted to have the use of a copy of the report for the purpose of preparing said argument, briefs and proposed findings, but it must then be returned to the Department.

Very truly yours,

VINCENT M. MILES, *Solicitor.*

Enc.
283a.

33

POST OFFICE DEPARTMENT,
OFFICE OF THE SOLICITOR,
Washington, June 26, 1945.

F. & L. Docket 14/393

IN THE MATTER OF CHARGES THAT PUZZLE CONTEST, FACTS MAGAZINE; CONTEST EDITOR, FACTS MAGAZINE; JUDITH S. JOHNSON, CONTEST EDITOR; MISS J. S. JOHNSON, CONTEST EDITOR; CONTEST EDITOR; FACTS MAGAZINE; AND HENRY WALSH LEE, EDITOR IN CHIEF, FACTS MAGAZINE, AT NEW YORK, NEW YORK,

are engaged in conducting a scheme for obtaining money through the mails by means of false and fraudulent pretenses, representations and promises, in violation of 39 U. S. Code 259 and 732 (Sections 3929 and 4041 of the Revised Statutes, as amended).

MEMORANDUM RECOMMENDING THE ISSUANCE OF A CITATION TO SHOW
CAUSE WHY A FRAUD ORDER SHOULD NOT BE ISSUED

It is charged that under the above names the Publishers Service Co., Inc., is engaged in conducting a scheme for obtaining money through the mails by means of false and fraudulent pretenses, representations and promises, in violation of 39 U.S. Code 259 and 732 (Sections 3929 and 4041 of the Revised Statutes, as amended), which said scheme is in substance and effect as follows:

Said concern operating as aforesaid is obtaining and attempting to obtain various remittances of money through the mails from divers persons as fees accompanying solutions submitted in a in a so-called "Hall of Fame" contest upon pretenses, representations and promises, contained in advertisements and 34 written and printed matter sent through the mails to the effect:

That said "Hall of Fame" contest is a puzzle contest in which the prizes will be awarded for the correct solution of puzzles;

That there exists a probability that the contestant will become a prize winner merely by the submission of correct solutions to the first group of 80 puzzles;

That the only fees to be paid by the contestant, even though it becomes necessary that he participate in the later phases of the contest, are those fees which he submits with his solutions to the first series of puzzles.

Whereas, in truth and in fact, all of the said pretenses, representations, and promises are false and fraudulent.

I, therefore, recommend that said concern be called upon to show cause why a fraud order should not be issued against the names set forth in the caption hereof.

WILLIAM C. O'BRIEN, Attorney.

To the SOLICITOR,

Of the Post Office Department.

35

Exhibit "G" to complaint.

POST OFFICE DEPARTMENT.

Washington, Oct. 1, 1945.

Order No. 29273

It having been made to appear to the Postmaster General, upon evidence satisfactory to him, that Puzzle Contest, Facts Magazine; Contest Editor, Facts Magazine; Judith S. Johnson, Contest Editor; Miss J. S. Johnson, Contest Editor; Contest Editor; Facts Magazine; and Henry Walsh Lee, Editor in Chief, Facts Magazine, and their officers and agents at a~~s~~ such, at New York,

New York, are engaged in conducting a scheme or device for obtaining money through the mails by means of false and fraudulent pretenses, representations, and promises, in violation of sections 259 and 732 of title 39, United States Code, said evidence being more fully described in the memorandum of the Solicitor for the Post Office Department of the date of September 17, 1945, and by authority vested in the Postmaster General by said laws the Postmaster General hereby forbids you to pay any postal money order drawn to the order of said concerns and parties and you are hereby directed to inform the remitter of any such postal money order that payment thereof has been forbidden, and that the amount thereof will be returned upon the presentation of the original order or a duplicate thereof applied for and obtained under the regulations of the Department.

And you are hereby instructed to return all letters, whether registered or not, and other mail matter which shall arrive at your office directed to the said concerns and parties to the postmasters at the offices at which they were originally mailed, to be delivered to the senders thereof, with the words "Fraudulent: Mail to this address returned by order of Postmaster General" plainly written or stamped upon the outside of such letters or matter. Where there is nothing to indicate who are the senders of letters not registered or other matter, you are directed to send such letters and matter to the appropriate dead letter branch with the words "Fraudulent: Mail to this address returned by order of Postmaster General" plainly written or stamped thereon, to be disposed of as other dead matter under the laws and regulations applicable thereto.

(Signed) ROBERT E. HANNEGAN,
Postmaster General.

(Case No. 50069-F.)

To the POSTMASTER,
New York, New York.

36 In the District Court of the United States

[Title omitted.]

[File endorsement omitted.]

Affidavit of Henry Walsh Lee

Filed Oct. 2, 1945

STATE OF NEW YORK,

County of New York, ss:

Henry Walsh Lee, being duly sworn, deposes and says:

1. I am Vice President of the plaintiff Read Magazine Inc., and Editor of the two magazines published by it known as "Read" and

"Facts." I am likewise a Vice President of the plaintiff, Publishers Service Company, Inc. I am thoroughly familiar with the business of these companies and with the subject-matter of the above-entitled action.

2. Read Magazine Inc. is a corporation organized under the laws of the State of New York, having its principal office and place of business at 75 West Street, New York, N. Y.

37 The primary business of this corporation is the publication of the above-mentioned magazines. These magazines, which appear monthly, are devoted principally to the publication of original essays upon persons, places and things of current interest. The magazines have become widely popular and "Read" now has a monthly circulation of 250,000 and "Facts" 225,000. A greater increase in circulation of these magazines is immediately anticipated as a result of the lifting of War Production Board limitations upon the use of paper.

3. Plaintiff, Publishers Service Company Inc., is a corporation organized under the laws of the State of New York in 1930, as successor to a corporation of the same name organized under the laws of the State of Delaware in 1928. The principal business of this corporation is the promotion and circulation of books and magazines and the sale of books and phonograph records published or manufactured by its subsidiary companies. In the newspaper field the company has conducted about 150 contests for the promotion of circulation of leading American newspapers. Prior to the war and the curtailment of newsprint, the company conducted contests almost exclusively for newspapers. Its clients include some of the outstanding newspapers of the United States. It has conducted contests for the promotion of subscriptions to magazines and the sale of books published by its subsidiary, Literary Classics Inc. It is the promoter of the "Hall of Fame" contest sponsored by "Facts" magazine for the purpose of merchandising books published by Literary Classics Inc.

38 4. Literary Classics Inc. is a corporation organized under the laws of the State of New York and is a subsidiary of Publishers Service Company Inc. It has published and sold millions of high-quality copies of the works of Mark Twain, Charles Dickens, Nelson's Encyclopedia, and Standard Library of Classics consisting of 100 volumes of classical literature, at minimum prices attained through quantity production methods. Publishers Service Company has promoted the sale of these books by vast national advertising campaigns. It has likewise sold millions of albums of high-class symphonic phonograph records by the same methods.

5. On April 1, 1945, "Facts" magazine sponsored, and Publishers Service Company promoted, for the benefit of Literary

Classics Inc., a contest for the purpose of promoting the sale of books published by Literary Classics Inc. The contest was nationally advertised in newspapers and in "Facts" magazine. The sponsor offered the public a first prize of \$10,000 and 499 other prizes, totalling \$17,500 to the winners of the contest. The sponsor offered a group of 80 rebus puzzles for solution. A rebus puzzle consists of a series of pictures of objects to be identified and named by the contestant. By addition and subtraction of letters in the names identifying the objects, the solution of the puzzle is obtained. The 80 puzzles submitted for solution were divided into 20 series of 4 puzzles each. The dead-line for entering the contest was June 16, 1945. Each series of 20 puzzle solutions submitted was required to be accompanied by 15¢ in coin.

39 The rules provided that, to break ties among contestants submitting solutions to the group of 80 puzzles, a first and if necessary a second tie-breaking group of puzzles would be submitted to the surviving contestants for solution. The rules further stipulated that the second tie-breaking group of solutions must be accompanied by an essay of 200 words. The rules provided that with each series of 4 solutions to the tie-breaking group of puzzles, the contestant must remit 15¢. The sponsor stated in advertising the contest that its purpose was to popularize the Literary Classics Book Club and that all contestants who made the required remittances with each group of 80 puzzles would receive the book published by that Club for the months of July, August and September.

In the rules the sponsor advised prospective contestants that: "Upon entering the contest, the entrant is asked to realize that the sponsor anticipates that a large number of persons may enter the contest and that a large number may solve one, two or all three of the Groups of puzzles * * * (Rule 9).

6. During the course of the contest the sponsor offered the contestants who had become eligible to participate in the first tie-breaker an opportunity to double or quadruple the original prizes offered by the purchase of additional books. In addition, the sponsor offered a subsidiary contest with identical prizes to the entrants in the contest who had failed successfully to solve

the first group of 80 puzzles. The amount of prize money

40 for which the sponsor now stands committed is \$105,000.

* There are 27,000 persons competing for this prize money. The contest has reached the stage of the second tie-breaker prescribed by the rules, and will terminate on October 27, 1945.

7. On or about June 26, 1945, the solicitor for the Post Office Department issued a citation addressed to "Puzzle Contest, Facts Magazine; Contest Editor, Facts Magazine; Judith S. Johnson, Contest Editor; Miss J. S. Johnson, Contest Editor; Contest Edi-

tor; Facts Magazine; and Henry Walsh Lee, Editor in Chief, Facts Magazine; at New York, New York" to show cause why mail addressed to these respondents should not be marked "fraudulent" and returned to the senders, and why Post Office money orders drawn to their order should not be similarly treated.

8. The citation alleges that Publishers Service Company, through the instrumentality of the respondents, and the respondents were obtaining or attempting to obtain money through the mails in a so-called "Hall of Fame" contest upon pretenses, representations and promises contained in advertisements and printed matter to the effect that said "Hall of Fame" contest is a puzzle contest in which the prizes will be awarded for the correct solution of puzzles. The second specification alleges that respondents represented and promised that there existed a probability that the contestant will become a prize winner merely by the submission of correct solutions to the first group of 80 puzzles. The third specification alleges that respondents represented and promised

41 ised that the only fees to be paid by the contestant, even though it becomes necessary that he participate in the later phases of the contest, are those fees which he submits with his solutions to the first series of puzzles. The citation alleges that all the foregoing pretenses, representations and promises are false and fraudulent. The answer of respondents was a general denial.

9. On September 4 and 5, 1945, a hearing was held before Hon. Daniel J. Kelly, Assistant Solicitor of the Post Office Department, on the issues raised by the specifications and the denial. The Government's case at the hearing was presented through Post Office Inspector Francis Boyle, through whom was offered in evidence copies of the announcement of the contest containing the official rules together with communications between the sponsor and contestants. A true copy of the announcement of the contest containing the official rules is appended to the Company's complaint as Exhibit A.

It was urged at the hearing by the Government that the contest was not in fact a puzzle contest because it might be resolved by the writing of a letter. The answer of the respondents to this charge in brief was that the rules of the contest clearly stated that the winner of the contest might be determined by judgment of his letter. The Government argued that respondents represented and promised that there existed a probability that the contestant would become a prize winner merely by the submission of correct solutions to the first group of puzzles. This charge is specifically refuted by Rule 9, the pertinent part of which is quoted above in which the direct opposite is repre-

sented. The third charge urged by the Government was that respondents represented and promised that the only fees to be paid by the contestant, even though it became necessary that he participate in the later phases of the contest, are those fees which he submits with the solutions to the first series of puzzles. Respondents replied to this charge by referring to the rules, which clearly inform the contestant that remittances are required with each series of 20 solutions to all three groups of puzzles.

The Post Office Inspector, who was the only Government witness, testified on cross-examination that the sponsor had fulfilled every promise which it had made to contestants, and that he knew of no promise which it had made that was not fulfilled. If the sponsor had promised, as the Government alleges, that prizes would be awarded for the correct solution of puzzles only, Inspector Boyle would not have testified that the sponsor fulfilled its promise. If the sponsor had promised, as the Government contended, that respondents represented and promised that there exists a probability that the contestant will become a prize winner by the submission of correct solutions to the first group of puzzles, Inspector Boyle would not have testified that the sponsor fulfilled his promise. If, as the Government urged, the respondents

43 represented and promised that the only fees to be paid by the contestant are those fees which he submits with his solutions to the first series of puzzles, Inspector Boyle likewise would not have testified that the sponsor had fulfilled his promise. Inspector Boyle testified that the rules required a letter to accompany the second tie-breaker; that tie-breakers were provided by the rules, and that fees were required to accompany each series of 20 puzzles in the tie-breaking group of puzzles. Inspector Boyle therefore testified to a clear understanding by him of the rules of the contest. There was no evidence at the hearing of any misunderstanding by anyone of the rules. Not a single witness was called by The Government to testify that the rules were not clear. The Government's case was predicated upon a blind and purposeful ignoring of the rules.

10. In spite of the lack of any evidence to support the specifications of fraud contained in the citation, the Postmaster General, on or about October 1st, 1945, purportedly acting under authority of Sections 3929 and 4041 of the Revised Statutes (39 U. S. C. A. 259, 732) issued an order prohibiting the delivery of mail or payment of money orders to respondents and directing the disposition of the mail which should be addressed to them.

11. This affidavit is made in support of an application by respondents and plaintiffs affected by said order to enjoin the Postmaster General from putting into effect such order.

12. The business of respondents and plaintiffs depends
44 almost exclusively upon the use of the mails. Plaintiffs
and respondents have a very substantial investment in their
businesses. Up to August 20, 1945 the sponsor had expended the
sum of \$831,843.71 as actual expenses of the contest and had be-
come liable for an additional \$105,000 in prize money. It had
receipts to that date of \$762,441.90 and there was, therefore, a def-
icit of \$169,401.81. Not only is the investment of the sponsor and
promoter in the instant contest in jeopardy by the fraud order, but
the entire investment of Publishers Service Company, Read Mag-
azine Inc., and Literary Classics Inc. in their businesses is threat-
ened. The businesses of these companies depend for their success
upon the use of the mails. Two important properties of Read
Magazine Inc., "Facts" and "Read" magazines, are directly af-
fected by the fraud order. A great deal of mail, having no rela-
tion to contests whatever, is addressed to me and to these maga-
zines. Under the instant order mail addressed to me and to "Facts"
magazine will be marked "Fraudulent" and returned to the send-
ers. Such action by postmasters throughout the United States will
result in the ruin of this legitimate business and my professional
career.

13. Of the original entrants in the "Hall of Fame" contest,
approximately 27,000 are now eligible to compete in the final
tie-breaker of the contest. These people in reliance upon the
truthful representations by the sponsor and promoter have in-
45 vested large sums of money and expended their time and
effort in the competition. They have every right to expect
to participate in accordance with their merits in the
\$105,000 in prizes offered them. The instant fraud order deprives
them, as well as plaintiffs, of the benefit of the use of the mails.
As to them no hearing whatever has been had. Not a single one
of them was called as a witness in the hearing to testify as to his
understanding or lack of understanding of the rules of the contest.
Were the rules fraudulent, misleading or vague, as the Govern-
ment contended at the hearing, it is reasonable to suppose that
the Government would have produced witnesses from among the
contestants so to testify. It is significant that it did not. The
only inference to be drawn from this failure is that the con-
testants themselves would not support the Government's claim of
fraud.

14. The announcement and rules of the "Hall of Fame" contest
were presented to Mr. Gregory of the office of the Solicitor to the
Postmaster General for review. He passed them as mailable.
They were then presented to the Classification Department of the
office of the Postmaster at New York, where they were similarly
passed as mailable. Many of the newspapers which published the

advertisement first presented it to their counsel and local post-masters, none of whom found complaint with it. On the contrary, of the 300 newspapers which published the advertising material, over 200 of them, on solicitation of the promoter, wrote letters to the promoter stating their opinion that the advertising material and the rules are clear and fair.

46 15. After the receipt of the Solicitor's citation, the promoter of the "Fall of Fame" contest canvassed all contestants participating in the first tie-breaker as to their understanding of the rules. The following questions were submitted to such contestants with the following results:

Question No. 1: At the time you entered the contest did you read the rules?

Out of 33,930 replies received, the answers to Question No. 1 were as follows: 33,826 (99.69%) said that they had read the rules; 104 (.31%) said they had not read the rules.

Question No. 2: What was your understanding when you entered the contest regarding the sending in of 15¢ in coin with each series of tie-breaking puzzles?

Out of 33,930 replies received the answers to Question No. 2 were as follows: 33,346 (98.28%) stated: "I understood that the rules required 15¢ with each series of tie-breaking puzzles"; 584 (1.72%) said: "I did not understand that the rules required 15¢ with each series of tie-breaking puzzles."

Question No. 3: What did you understand you would receive for the 15¢ remittances that were to be sent with each series of puzzles?

Out of 33,930 replies received, the answers to Question No. 3 were as follows: 32,796 (96.66%) said: "I understood that for the remittances that accompanied the first 80 puzzles I was to receive the July Book of Literary Classics Book Club, and that for the remittances I sent with the tie-breaking series I was to receive the Book Club Book for the following months"; 1,134 (3.34%) said: "I did not understand what I was to receive for the remittances sent in."

Question No. 4: What was your understanding at the time you entered the contest as to the number of puzzles and the letter provided for in the contest?

Out of 33,930 replies received the answers to Question No. 4 were as follows: 31,356 (92.41%) said: "I understood from the rules that there would be a group of 80 puzzles, the solutions to which were due to be mailed by June 16, and that to break ties there would be one, and if necessary two additional tie-breaking groups of puzzles, divided into series exactly like the first group. Any ties remaining on the final group of tie-breaking puzzles were

to be broken by a letter of not more than two hundred words on this subject: 'The puzzles I found most interesting and educational in this contest.' 2,574 (7.59%) said 'I did not understand from the rules that the tie-breaking puzzles and the letter were provided for in case of ties.'

16. Unless the instant fraud order is enjoined plaintiffs will suffer irreparable harm to their businesses in that the current contest which is about to terminate will be interrupted with consequent large financial loss to the sponsor and promoter, their associated corporations and to the contestants competing for the prize money. Not only will financial loss ensue, but plaintiffs' and Read Magazine Inc.'s substantial property, Facts Magazine, will be utterly destroyed. As Editor of that magazine I shall suffer the ignominy of being branded a cheat without the slightest evidence to support such stigma. Coincidentally with

48 the disaster to plaintiffs and their businesses which will attend carrying into effect of the fraud order, every newspaper which carried the advertisement of the contest will likewise suffer. The powers granted to the Postmaster General were never intended to be so exercised.

17. No previous application for the relief herein granted has been made to this or any other court.

Wherefore, I respectfully pray that this Court issue a temporary restraining order restraining defendant, his agents, servants, and employees (a) from enforcing or attempting to enforce the said fraud order hereinabove referred to, and from interfering with the right of plaintiffs, their agents, and employees, to receive mail addressed to them or to make use of the money-order facilities and services of the Post Office Department; and (b) from in any way interfering with the normal conduct of plaintiffs' businesses as a consequence of the issuance of said fraud order:

HENRY WALSH LEE.

Sworn to before me, this 2d day of October 1945.

Minnie Panisch,
MINNIE PANISCH,
Notary Public, New York County.

N. Y. Co. Clk's No. 186, Reg. No. 236-P-8.
Commission expires March 30, 1946.

55 In the District Court of the United States

[Title omitted.]

[File endorsement omitted.]

Affidavit in Opposition to Motion for Preliminary Injunction.

Filed Oct. 16, 1945

UNITED STATES OF AMERICA

District of Columbia, ss:

The undersigned, Vincent M. Miles, being first duly sworn, says: That since October 5, 1938, he has been and is now the Solicitor of the Post Office Department of the United States.

That on June 26, 1945, there was forwarded by him to the postmaster at New York, New York, for delivery to Puzzle Contest, Facts Magazine; Contest Editor, Facts Magazine; Judith S. Johnson, Contest Editor; Miss J. S. Johnson, Contest Editor; Contest Editor; Facts Magazine; and Henry Walsh Lee, Editor in Chief, Facts Magazine, a notice, certified copy of which is attached hereto as Exhibit A-1, transmitting a memorandum of specific charges, certified copy of which is attached hereto as Exhibit A-2, that said parties and concerns were obtaining remittances through the mails by means of false and fraudulent pretenses, representations and promises, in violation of Sections 259 and 732 of Title 39 of United

56 States Code and advising that said charges would be taken up for disposition on July 16, 1945, at 10:00 A. M.; at a

hearing before the Solicitor of the Post Office Department at the Post Office Department Building, Washington, D. C.; that on June 29, 1945, the postmaster at New York, New York, addressed a letter to affiant advising of the delivery of the memorandum of charges and attaching a receipt signed by a representative of the respondents, certified copy of which letter is attached as Exhibit A-3; that on July 12, 1945, counsel for the respondents wrote a letter to the affiant requesting a 30-day continuance of the hearing date in this matter, certified copy of which letter is attached as Exhibit A-4, and on July 13, 1945, affiant sent the said counsel a letter informing him that the hearing had been continued to August 14, 1945, certified copy of that letter being attached hereto as Exhibit A-5; that on August 3, 1945, counsel addressed

another letter to affiant, certified copy attached as Exhibit A-6, requesting a further postponement of the hearing date, and on August 6, 1945, the affiant wrote a letter to counsel, certified copy attached as Exhibit A-7, informing him that an additional continuance had been granted to September 3, 1945, and that any brief to be submitted should be filed at the conclusion of said hearing.

That on September 3 and 4, 1945, a hearing was held on the charges aforesaid at the place previously designated therefor; that an appearance was made by counsel for the respondent; as well as by certain officials of the respondent concerns; that a general denial of the charges was orally entered at the outset of the hearing; that a post office inspector testified on behalf of the Post Office Department; that five witnesses testified for the respondent; and that a record consisting of 251 typewritten pages was made of the entire proceedings.

That on September 17, 1945, following a careful consideration of the entire record of the case, including the memorandum of charges, transcript of testimony, exhibits, brief of respondents, and incidental papers in the case, a memorandum was addressed by affiant to the Postmaster General reviewing said entire record and embodying of finding of fact and recommendation for the issuance of a fraud order; that a certified copy of said memorandum, consisting of 17 pages, is hereto attached as Exhibit A-8; that on October 1, 1945, upon evidence satisfactory to him as by the statutes pertinent thereto provided, the Postmaster General issued a fraud order against Puzzle Contest, Facts Magazine; Contest Editor, Facts Magazine; Judith S. Johnson, Contest Editor; Miss J. S. Johnson, Contest Editor; Contest Editor; Facts Magazine; and Henry Walsh Lee, Editor in Chief, at New York, New York, a certified copy of said fraud order being hereto attached as Exhibit A-9.

That (recapitulating) the respondents were furnished a clear and definite specification which fully apprized them of the nature of the charges against them; that they were given proper notice that a hearing would be held with respect to the charges and were given full and ample time in which to prepare for said hearing; that a full and fair hearing was, in fact, held in said case at which the respondents through their counsel and witnesses presented their defense to the charges drawn; that oral argument was made by respondents' counsel at the conclusion of the hearing and a brief filed two days later; that the fraud order was issued upon the basis of the entire record, including the brief of respondents' counsel.

That for further substantiation of the statement herein made and in addition to the exhibits attached hereto, affiant hereby sub-

mits for examination at the pleasure of the Court all of the correspondence, pleadings, brief, and exhibits involved in the fraud order proceedings.

VINCENT M. MILES,

*Solicitor for the Post Office Department
of the United States.*

Subscribed and sworn to before me, a Notary Public, in and for the District of Columbia, this 16th day of October 1945.

DAVID KISLINK,
Notary Public.

My commission expires March 31, 1946.

68

Exhibit A-8 to affidavit

POST OFFICE DEPARTMENT,

OFFICE OF THE SOLICITOR,

Washington, September 17, 1945.

F. & L. Docket 14/393

IN THE MATTER OF CHARGES THAT PUZZLE CONTEST, FACTS MAGAZINE; CONTEST EDITOR, FACTS MAGAZINE; JUDITH S. JOHNSON, CONTEST EDITOR; MISS J. S. JOHNSON, CONTEST EDITOR; CONTEST EDITOR; FACTS MAGAZINE; AND HENRY WALSH LEE, EDITOR IN CHIEF, FACTS MAGAZINE, AT NEW YORK, NEW YORK.

are engaged in conducting a scheme for obtaining money through the mails by means of false and fraudulent pretenses, representations and promises, in violation of 39 U. S. Code 259 and 732 (Sections 3929 and 4041 of the Revised Statutes as amended).

MEMORANDUM FOR THE POSTMASTER GENERAL EMBODYING A FINDING OF FACT AND RECOMMENDING THE ISSUANCE OF A FRAUD ORDER.

Under date of June 26, 1945, a copy of the memorandum of charges in this case, on file in this office, against the concerns and parties named in the caption hereof, was forwarded to the postmaster at New York, New York for delivery to the respondents. The memorandum of charges was accompanied with a letter addressed to the concerns and parties named therein, calling upon them to show cause on July 16, 1945, at this office, why a fraud order should not be issued against them. Under date of June 29, 1945, the postmaster advised this office that the memorandum of charges had been delivered to the addressees and a receipt therefor signed by E. Fertel (shown to be Esther Fertel, Treasurer) was obtained by the delivering clerk.

Under date of July 12, 1945, this office received a letter from a Washington law firm entering appearance on behalf of 69 the respondents and requesting a thirty days' postponement of the hearing, which was accordingly continued, until August 14, 1945. Demand for a further continuance was later made, and in response thereto the hearing date was again postponed to September 4, 1945, with the following provision:

"In view of the 69 day period of preparation allowed in this case, which, I am advised, involves a fairly simple set of facts well known to your client, it is requested that you file at the termination of the hearing any brief which you desire to present and also be prepared to then argue the case, if oral argument is desired by you."

The hearing was commenced on Tuesday, September 4, 1945, and concluded next evening. Counsel was granted an additional day to file the brief mentioned above. However, at the conclusion of the hearing the merits of the case both as to the law and the facts were argued before the hearing officer by counsel for the Government and for the respondents. The hearing was attended on behalf of the respondents by Colonel Theodore Artér, President of the Publishers Service Co., Inc., owners of the enterprises; also by Mr. Paul Sarazen, Executive Vice President; Miss Esther Fertel, Secretary-Treasurer; Mr. Henry Walsh Lee, Editor-in-chief of Facts Magazine, and by Mr. F. Harvey Morse, a sales representative of the Reuben H. Donnelley Company. The respondents were also represented by New York and Washington counsel.

The transcript of the proceedings of the hearing, together with all exhibits received in evidence and also exhibits marked for identification but not received in evidence, is by this reference made a part hereof.

In view of the extended continuances, respondents were allowed only one additional day to file their brief, as explained above. The said brief has now been received and considered.

70. The entire record in this case, including the brief of respondents, has been carefully considered before finding the facts and making the recommendations hereinafter appearing, and the same is submitted herewith.

The memorandum of charges alleges that the respondent concerns and parties named in the caption hereof are engaged in conducting a scheme for obtaining money through the mails by means of false and fraudulent pretenses, representations and promises as follows:

It is charged that under the above names (set forth in the caption hereof) the Publishers Service Co., Inc., is engaged in

conducting a scheme for obtaining money through the mails by means of false and fraudulent pretenses, representations, and promises, in violation of 39 U. S. Code 259 and 732 (Sections 3929 and 4041 of the Revised Statutes, as amended), which said scheme is in substance and effect as follows:

Said concern operating as aforesaid is obtaining and attempting to obtain various remittances of money through the mails from divers persons as fees accompanying solutions submitted in a so-called "Hall of Fame" contest upon pretenses, representations, and promises, contained in advertisements and written and printed matter sent through the mails to the effect:

The said "Hall of Fame" contest is a puzzle contest in which the prizes will be awarded for the correct solution of puzzles:

That there exists a probability that the contestant will become a prize winner merely by the submission of correct solutions to the first group of 80 puzzles:

That the only fees to be paid by the contestant, even though it becomes necessary that he participate in the later phases of the contest, are those fees which he submits with his solutions to the first series of puzzles;

Whereas, in truth and in fact, all of the said pretenses, representations, and promises are false and fraudulent.

Post Office Inspector F. D. Boyle, who investigated the use of the mails by respondents, appeared and testified as a witness for

the Government. His testimony shows that the respondent 71 corporation, Publishers Service Co., Inc., has been engaged in conducting contests for newspapers, publications, and other customers. Facts Magazine is a division of Read Magazine; and the latter is a subsidiary of Publishers Service Co., as is also another organization known as Literary Classics, Inc. The testimony of the inspector, as well as that given in behalf of respondents by the Secretary-Treasurer of respondent corporation, shows that the officers of the latter also hold the same positions as officers of the above-named and other subsidiary organizations. These officers have heretofore been enumerated.

During recent years, at least since 1941, Publishers Service Co. has largely confined its contest promotional efforts to those contests which were sponsored by itself directly or through its subsidiaries. Such contests include the so-called Music Appreciation Contest conducted in 1941-42 by Music Appreciation, Inc., a subsidiary; All-American Contest in 1942-43; Read Magazine Contest in 1943-44, and the current contest conducted for Facts Magazine and Literary Classics, Inc., known as the "Hall of Fame Contest" commencing in April of 1945.

The so-called "Hall of Fame Contest" which was commenced, as stated, in April 1945, and which is still uncompleted, has been advertised in newspapers and periodicals of national coverage. The advertisements invariably refer to and designate this enterprise as a "Puzzle Contest." A typical advertisement, published

April 3, 1945, is photostatically reproduced below:

72 [Photostat.]

73 The April 1945, issue of Facts Magazine (Gov. Ex. 1-A) contains the matter appended hereto in photostatic form.

74 Typical examples of the puzzles offered for solution in the current contest are shown in the attached photostat (Gov. Ex. 1-C).

75 The advertisement of this contest contained in the April 1945 issue of Facts Magazine (Gov. Ex. 1-A) includes the following representation:

WE WILL MAIL YOU ALL THE OTHER PUZZLES IN THE CONTEST

The four puzzles on these two pages comprise Series No. 1 of the contest. Fill in your solutions to these four puzzles on the Official-Entry Form which appears on Page 53. Mail your solutions as promptly as possible. Send in only the ENTRY FORM. Do not enclose the puzzles themselves. As soon as we receive your solutions to these 4 puzzles (Series No. 1), we will mail you the additional puzzles.

Persons who remit 15 cents in coin as requested by this advertisement of the contest which appeared in Facts Magazine and other publications are forwarded a 24-page pamphlet of 8 x 11 inches, upon the cover of which appears the legend:

ALL 80 PUZZLES—Official Rules and Details on Inside Pages

START NOW! SEND IN YOUR ENTRY! ANSWER FORMS INSIDE

(Gov. Ex. 1-C.)

Following are photostatic reproductions of the front cover and of pages 2, 3, and 24.

76 [Photostat.]

77 [Photostat.]

78 [Photostat.]

79 [Photostat.]

Solve the 4 Puzzles NOW-Mail Entry By Saturday Night, April 7th

\$10,000 FIRST PRIZE - PUZZLE CONTEST

Starting This Issue...
NEW PUZZLE CONTEST
\$10,000 FIRST PRIZE

Facts

500 Cash PRIZES

| | |
|---------------------------------|-----------------|
| 1st Prize | \$10,000 |
| 2nd Prize | \$2,000 |
| 3rd Prize | \$1,000 |
| 4th Prize | \$500 |
| 5th Prize | \$250 |
| 6th Prize | \$250 |
| 7th Prize | \$250 |
| 8th Prize | \$150 |
| 9th Prize | \$100 |
| 10th Prize | \$100 |
| Next 90 Prizes, each \$10 | \$900 |
| Next 400 Prizes, each \$5.00 | \$2,000 |
| TOTAL | \$17,500 |

Win \$10,000, \$2,000, \$1,000 or Any of 500 Cash Prizes
in FACTS Magazine's New, Delightful Puzzle Contest

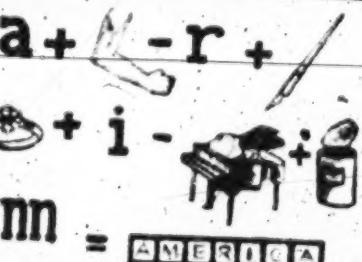
SOLVE THESE 4 PUZZLES NOW!

Write your solutions on the Entry Form below, and mail
the Entry Form on or before Midnight, Saturday, April 7th!

Here's a SAMPLE Puzzle—Just to Give You the Idea—
EXPLANATION

Note this Sample Puzzle. Notice the objects illustrated
and the plus and minus signs, which mean that you add
or subtract.

You see the letters O-A followed by a plus sign after
which comes an object that is obviously an ARM. Therefore, to O-A you add the letters A-R-M, which gives you
O-A-R-M. Then you subtract R as directed, leaving
O-A-M. Next comes a plus sign followed by a PEN,
so you add P-E-N, giving you O-A-M-P-E-N, to
which you now add RING, plus the letter I, as directed.
Thus you have O-A-M-P-E-N-R-I-N-G-I, from which
you then subtract PIANO. No you cross out the letters
PI-A-N-O, leaving A-M-E-R-I-N-G-I, to which you add
the next object, CAN, or the letters C-A-N, giving you
A-M-E-R-I-N-G-I-C-A-N, from which you finally subtract
the letters G-N-N, giving you AMERICA as the solution.



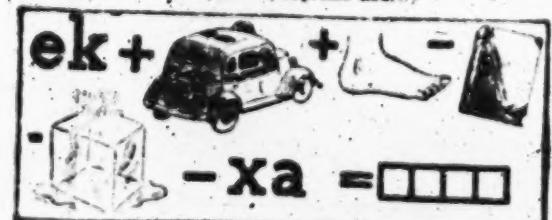
PUZZLE No. 1

(Represents the name of the inventor of the phonograph and
electric light.)



PUZZLE No. 2

(Represents the name of a Republican President who became
Chief Justice of the Supreme Court.)



First of All—Study the Sample Puzzle
Solve the sample puzzle printed in the upper right portion of
this page before trying to solve the first 4 official puzzles.
Once you understand how the sample puzzle is solved, you
are ready for the first 4 official puzzles.

OFFICIAL RULES OF THE CONTEST

1. This contest is open to everybody except employees and relatives of employees of FACTS Magazine or any person or firm directly or indirectly employed in conducting the contest.

2. A Group of 80 puzzles will be offered for solution. The solutions to the puzzles will be names of persons or places, quotes, movies, plays or songs, in turn any name which the Editors may consider famous.

3. A First Prize of \$10,000.00 in cash and 499 other cash prizes totaling \$17,500.00, will be paid to the 499 entrants who by their submissions achieve the highest scores in accordance with all of these official rules.

4. The 80 puzzles are divided into 20 Series of 4 puzzles each. Puzzles 1-4 comprise Series Number One. Puzzles 5-8 comprise Series Number Two etc. etc. of the Group consisting of 20 Series. Each week contestants are asked to mail their solutions to the puzzles, one or more Series of solutions at a time, on or before Saturday night of each week.

5. Submit your solutions for Series Number One as promptly as possible. When we receive your solutions for Series Number One, we will mail to you the remaining nineteen Series, as issued. Solutions for these remaining Series are to be submitted in accordance with the Submission dates printed on each Series. All Series must be qualified in accordance with Rule No. 8.

6. Once you enter the contest, the additional puzzles will be mailed to you as needed. In submitting the solutions for a current Series, the contestant is privileged to submit the solutions for preceding Series. Solutions for the Twentieth Series must be postmarked not later than June 16, 1945. Copies of any publication which may contain any of the puzzles may be examined free at our Public Library, and drawings or copies of the Entry Form or Another Form will be equally acceptable as forms clipped from the magazine or from a newspaper or paper. The Puzzles will be mailed free upon request to the sponsor.

7. Neatness does not count, but SPELLING of the correct solutions is important. Any prize in spelling will count greater than one that prize is so trivial or useless that on the minds of the judges there is no shadow of doubt but that you not only correctly solved the puzzle but also submitted the correct name represented by same. FACTS Magazine will not be responsible for submissions or communications undelivered, delayed, or not received, or lost in the mail either from the contestant to FACTS Magazine or from FACTS Magazine to the contestant.

8. This is a contest of skill. Upon entering the contest, the contestant agrees that prior to being awarded a prize, he or she will sign and execute under oath an affidavit attesting that he or she

has not bought or exchanged answers in this contest; nor used answers bought, exchanged or supplied. The contestant further agrees that the decision of the Contest Editor, in all matters affecting the conduct of the contest, the acceptance of submissions, and the time limits established for the acceptance of submissions, is under unusual circumstances giving through no fault of the contestant, the making of awards, and the measures invoked to insure individual effort as fairness to all contestants, shall be final and conclusive.

9. To qualify for a prize, the contestant is required to accompany each Series of four solutions with 15 cents in coin. Each contestant who submits a complete Group of solutions for this contest qualified in accordance with the Rules will receive the book selected for the month of July by the Literary Classics Book Club. Any contestant who becomes eligible to submit, and who does submit, a Group of qualified tie-breaking solutions, will receive the following month's Book Club selection. Entrants who for any reason drop out of the contest before sending in the complete Group of 80 solutions will receive a set of Quotations by Famous Statesmen.

10. Neatness will not count. Do not, decorate your answers. Just submit your solutions in accordance with the rules. In case of ties, if two or more persons tie in submitting the correct solutions, then the first two or more people will be rewarded for those contestants and will be awarded in the order of accuracy of the submissions of these contestants to a first, and if necessary, a second, tie-breaking group of puzzles, divided into Series exactly like the first Group. In case a second tie-breaking Group of puzzles is necessary, contestants eligible to solve same will be required to accompany their solutions to this second tie-breaking Group of puzzles with a letter of not more than 200 words on the subject "The Puzzles I Found Most Interesting and Educational in This Contest." All tie-breaking Series must be qualified in accordance with the provisions of Rule No. 8. Only in case this exist after such final tie-breaking puzzles have been checked will the letters be considered, and in that event they will be judged on the basis of originality, in description and general interest. In case of final ties, duplicate prize will be awarded. Upon entering the contest, the entrant is asked to realize that the sponsor anticipates that a large number of persons may enter the contest and that a large number may solve one, two or all three of the Groups of puzzles, and that the sponsor will not make known the number of persons competing in any phase of the contest, irrespective of how large or how small that number may be. FACTS Magazine reserves the right to offer spectators the opportunity to win increased prizes, or to offer consolation prizes or additional prizes at any time prior to the conclusion of the contest.

11. All solutions should be forwarded by mail and addressed to Puzzles Contest, FACTS Magazine, P.O. Box 524, Church Street Post Office Annex, New York 8, N. Y.

First of All—Study the Sample Puzzle

Study the sample puzzle printed in the upper right portion of this page before trying to solve the first 4 official puzzles. Once you understand how the sample puzzle is solved, you are ready for the first 4 official puzzles.

MAIL YOUR SOLUTIONS
BY MIDNIGHT,
SATURDAY, APRIL 7th

Your solutions to Series No. 1 should be filled in on the Entry Form at the bottom of this page and mailed as promptly as possible before Midnight, Saturday, April 7th.

Please be careful in copying your solutions on to the Entry Form. FACTS MAGAZINE wants to do everything within its power to make this contest the most delightful and the most efficiently conducted in which you have ever taken part. Please co-operate with us. Please write or print your name and address clearly and legibly.

ENCLOSE 15c WITH EACH SERIES

To qualify your solutions for a prize, as provided under the Rules, enclose 15 cents in coin with each Series of four puzzle solutions. Coins should be wrapped carefully in a small piece of paper. In return for the remittance for the twenty Series, you will receive the book issued by the Literary Classics Book Club as per the Rules. This contest with FACTS MAGAZINE as sponsor, is being presented as a means of popularizing the Literary Classics Book Club.

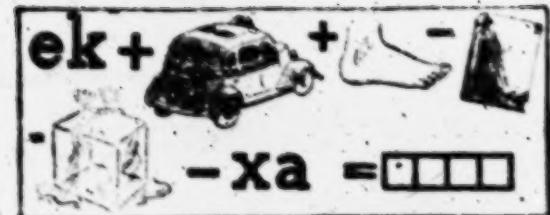
WE'LL MAIL YOU REST OF PUZZLES UPON RECEIPT OF YOUR ENTRY

FACTS MAGAZINE will mail you FREE all of the remaining puzzles in the contest as soon as we receive your Entry Form with your solutions to Puzzles 1-2-3-4. In encasing 15 cents as called for under the Rules, please wrap same in a small piece of paper before enclosing in the envelope. More than one member of a family can use one, and a tracing of the Entry Form will be equally as acceptable as the printed ENTRY FORM. The only person barred from entering the contest are employees and relatives of employees of FACTS MAGAZINE and its various affiliated publishing companies.

MAIL YOUR ENTRY PROMPTLY

Not Later Than
Midnight, Saturday,
April 7th

Copyright, 1945,
Literary Classics, Inc.



PUZZLE No. 3

(Represents the name of a British king whose court is the setting of a book by Mark Twain.)



PUZZLE No. 4

(Represents one of the greatest names in baseball.)



Mail Before Midnight, Saturday April 7th

Car Along Dotted Line OFFICIAL ENTRY FORM

Puzzles Contest
FACTS MAGAZINE

P. O. Box 524, Church St. Annex
New York 8, N. Y.

Date _____

I submit the following in my solutions to Puzzles 1-4 in your Puzzles Contest:

1. _____ 3. _____

2. _____ 4. _____

I enclose 15 cents in coin to qualify me for a prize in accordance with the official rules.

My (Check
Name) _____

Address _____

City _____ State _____

<p

Facts Magazine WILL PAY A FIRST PRIZE OF \$10,000 CASH

500 CASH PRIZES

FIRST PRIZE
\$10,000.00

SECOND PRIZE
\$2,000.00

THIRD PRIZE
\$1,000.00

Fourth
Prize
\$500.00

Fifth
Prize
\$250.00

Sixth
Prize
\$250.00

Seventh
Prize
\$250.00

Eighth
Prize
\$150.00

Ninth
Prize
\$100.00

Tenth
Prize
\$100.00

Next 98 Prizes,
each \$1.00
\$900.00

400 Additional
Prizes, each \$5.00
\$2,000.00

Total **\$17,500.00**

The "Hall of Fame" PUZZLE CONTEST

Accept this cordial invitation from FACTS to enter its puzzle contest. Here is your opportunity to win \$10,000, \$2,000, \$1,000 or any of 500 cash prizes totaling \$17,500.

The puzzles in this contest are divided into 20 Series of 4-puzzles each. You will find the 1st Series (Puzzles 1-4) on the next two pages. Solve these puzzles and send in your solutions as promptly as possible. When we receive your solutions to Series No. 1, we will mail you the remaining Series of puzzles. The Rules are printed in full on Page 52. Please read them carefully and be sure you understand them.

First of All:— Study the Sample Puzzle Printed at the Right

Study the sample puzzle and explanation on Page 49 before trying to solve the first 4 official puzzles. Once you understand how the sample puzzle is solved, you are ready for the first 4 official puzzles printed on pages 50 and 51.

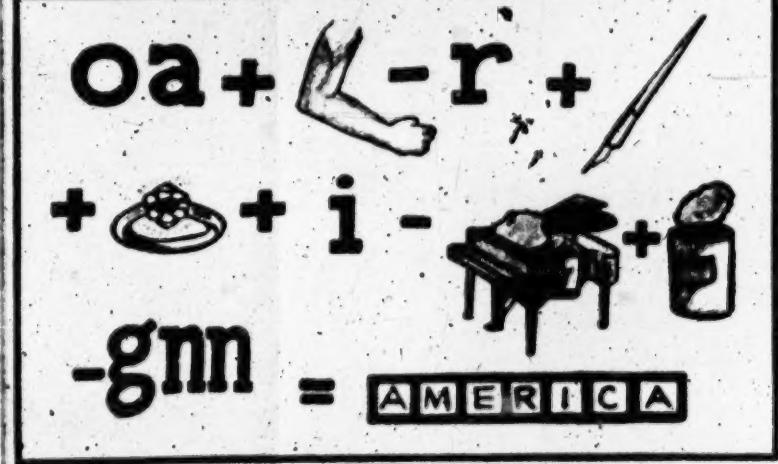
Mail Your Solutions as Promptly as Possible
Your solutions to Series No. 1 should be filled in on the Entry Form printed on page 53, and mailed as promptly as possible. We will mail you the remaining puzzles of the contest, with dates for submitting solutions to the various Series, as soon as we receive your Entry Form.

Enclose 15¢ With Each Series

To qualify your solutions for a prize, as provided under the Rules, enclose 15 cents in coin with each Series of four puzzle solutions. Coins should be wrapped carefully in a small piece of paper. In return for the remittances for the twenty Series, you will receive the book issued by the Literary Classics Book Club as per the Rules.

Can You Solve This Puzzle?

(IT'S A SAMPLE PUZZLE TO EXPLAIN THE IDEA—
SEE EXPLANATION BELOW THE PUZZLE.)



EXPLANATION

Note this Sample Puzzle. Notice the objects illustrated and the plus and minus signs, which mean that you add or subtract.

You see the letters O-A followed by a plus sign after which comes an object that is obviously an ARM. Therefore, to O-A you add the letters A-R-M, which gives you O-A-A-R-M. Then you subtract R as directed, leaving O-A-A-M. Next comes a plus sign followed by a PEN, so you add P-E-N, giving you O-A-A-M-P-E-N, to which you now add RING, plus the letter I, as directed. Thus you have O-A-A-M-P-E-N-R-I-N-G-I, from which you then subtract PIANO. So you cross out the letters P-I-A-N-O, leaving A-M-E-R-N-G-I, to which you add the next object, CAN, or the letters C-A-N, giving you A-M-E-R-N-G-I-C-A-N, from which you finally subtract the letters G-N-N, giving you AMERICA as the solution.

Contest is to Popularize Book Club

This contest is being presented as a means of popularizing the Literary Classics Book Club, and those who submit complete Groups of the 20 Series of puzzle solutions, qualified in accordance with the Rules, will receive books issued by the Club as per the Rules.

FIRST 4 OFFICIAL PUZZLES ON NEXT 2 PAGES

Your Opportunity to Win \$10,000...and Enjoy Solving Puzzles!

HALL
of
FAME

Can You
Solve This
Puzzle? →

(READ THIS EXPLANATION)

Now get another puzzle. Notice the letters "OA" at the top and the plus and minus signs, which mean add and subtract, respectively.

You are to add OA, but subtract by a plus sign, then add again, then subtract again, and so on.

Now add OA and again subtract OA and so on. Then add OA and subtract OA and so on.

Now add OA and subtract OA and so on. Then add OA and subtract OA and so on.

Now add OA and subtract OA and so on. Then add OA and subtract OA and so on.



Read carefully the explanation to the left. Be sure you understand how to proceed in solving these puzzles. There are 10 puzzles and each of the 10 official puzzles will be listed. Submit your solutions in care of the publisher and give yourself the opportunity to win \$10,000.00 or one of the 500 cash prizes.

YOU CAN WIN
\$10,000.00
FIRST PRIZE
 →
500 CASH PRIZES



Solve the Puzzles and Find
 the Famous Names They Represent

Win Cash Prizes by

ENTERTAINMENT MAGAZINE

CLASS BOOK CLUB

ENTER NOW → Official Rules and Details on Inside Pages
 MAIL YOUR ANSWERS → Send In Your Entry! Answer Forms Inside

THE OFFICIAL RULES

1. This contest is open to everybody except employees and relatives of employees of FACTS Magazine or any person or firm directly or indirectly employed in conducting the contest.

2. A Group of 80 puzzles will be offered for solution. The solutions to the puzzles will be names of persons, or places, books, movies, plays or songs, in fact any name which the Editors may consider famous.

3. A First Prize of \$10,000.00 in cash and 499 other cash prizes, totaling \$17,500.00, will be paid to the 500 entrants who by their submissions achieve the highest scores in accordance with all of these official rules.

4. The 80 puzzles are divided into 20 Series of 4 puzzles each. Puzzles 1-4 comprise Series Number One, Puzzles 5-8 comprise Series Number Two, etc., etc., the Group consisting of 20 Series. Each week contestants are asked to mail solutions to the puzzles, one or more Series of solutions at a time, on or before Saturday night of each week.

Submit your solutions for Series Number One, as promptly as possible. Solutions for the remaining Series are to be submitted in accordance with instructions with regard to mailing dates printed on each Series. All Series must be qualified in accordance with Rule No. 8.

5. In submitting the solutions for a current Series, the contestant is privileged to submit the solutions for preceding Series. Solutions for the Twentieth Series must be postmarked not later than June 16, 1945. Copies of any publication which may contain any of the puzzles may be examined free at any Public Library, and tracings or copies of the Entry Form or Answer Forms will be equally acceptable as forms clipped from the magazine or from a newspaper, or circular. The Puzzles will be mailed free upon request to the sponsor.

6. Neatness does not count, but SPELLING of the correct solutions is important. Any error in spelling will count against you unless that error is so trivial or irrelevant that in the minds of the judges there is no shadow of doubt, but that you not only correctly solved the puzzle but also submitted the correct name represented by it.

FACTS Magazine will not be responsible for submissions or communications unduly delayed, or not received, or lost in the mail either from the contestant to FACTS Magazine or from FACTS Magazine to the contestant.

7. This is a contest of skill. Upon entering the contest, the contestant agrees that prior to being awarded a prize, he or she will sign and execute under oath an affidavit attesting that he or she has not bought or exchanged answers in a contest, nor used answers bought, exchanged, or supplied. The contestant further agrees that the decision of the Contest Editors in all matters affecting the conduct of the contest, the

acceptance of submissions, and the time limits established for the acceptance of submissions under unusual circumstances arising through no fault of the contestant, the making of awards, and the measures invoked to insure individual effort in fairness to all contestants, shall be final and conclusive.

8. To qualify for a prize, the contestant is required to accompany each Series of four solutions with 15 cents in coin. Each contestant who submits a complete Group of solutions for this contest qualified in accordance with the Rules will receive the book selected for the month of July by the Literary Classics Book Club. Any contestant who becomes eligible to submit, and who does submit, a Group of qualified tie-breaking solutions, will receive the following months Book Club selection. Entrants who for any reason drop out of the contest before sending in the Group of 80 solutions, will receive a set of Quotations by Famous Statesmen.

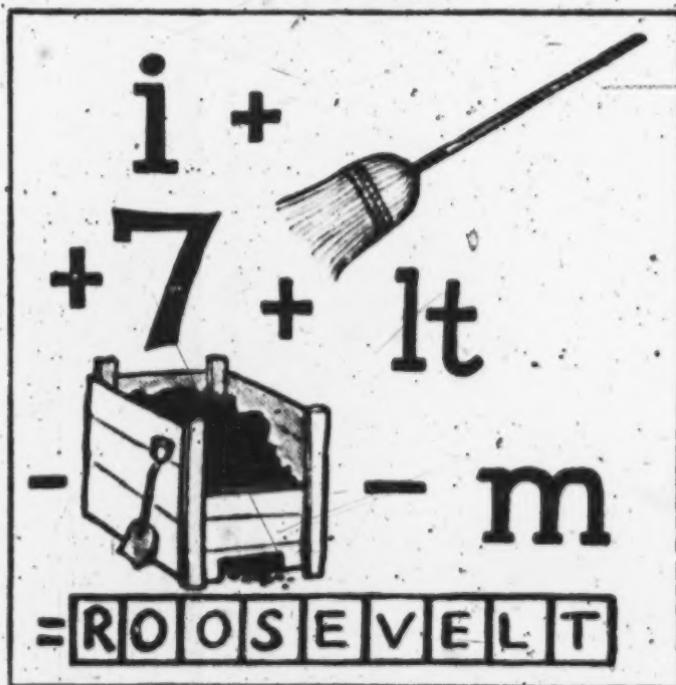
9. Neatness will not count. Do not decorate your answers. Just submit your solutions in accordance with the rules. In case of ties, if two or more persons tie in submitting the correct solutions, then the first two or more prizes will be reserved for those contestants and will be awarded in the order of accuracy of the submissions of those contestants to a first, and if necessary, a second, tie-breaking group of puzzles, divided into Series exactly like the first Group. In case a second tie-breaking Group of puzzles is necessary, contestants eligible to solve same will be required to accompany their solutions to this second tie-breaking Group of puzzles with a letter of not more than 200 words on the subject "The Puzzle I Found Most Interesting and Educational in This Contest." All tie-breaking Series must be qualified in accordance with the provisions of Rule No. 8. Only in cases exist after such final tie-breaking puzzles have been checked, will the letters be considered, and in that event they will be judged on the basis of originality in description and general interest. In case of final ties, duplicate prizes will be awarded. Upon entering the contest, the entrant is asked to realize that the sponsor anticipates that a large number of persons may enter the contest and that a large number may solve one, two or all three of the Groups of puzzles, and that the sponsors will not make known the number of persons competing in any phase of the contest, irrespective of how large or how small that number may be. FACTS Magazine reserves the right to offer contestants the opportunity to win increased prizes, or to offer consolation prizes or additional prizes at any time prior to the conclusion of the contest.

10. All solutions should be forwarded by mail and addressed to Puzzle Contest, FACTS Magazine, P. O. Box 324, Church Street Post Office Annex, New York 8, N. Y.

EXPLANATION

How to Solve the Puzzles

(SAMPLE PUZZLE)



THE puzzle above is just a SAMPLE PUZZLE. It doesn't count in the contest. It is one of several Sample Puzzles printed in this booklet just to give you the idea of the contest. The 80 official puzzles appear on Pages 4 through 25.

Let's solve this Sample Puzzle together! Let's take note, first of all, that there are various objects and letters shown in the puzzle, with plus and minus signs that tell whether to add or subtract.

First thing we see in this puzzle is the letter I, to which you are directed to add an object we recognize instantly as a BROOM. Therefore we jot down the letters I-B-R-O-O-M. Next we are told to add S-E-V-E-N. And that gives us I-B-R-O-O-M-S-E-V-E-N, to which we add still another two letters, L and T, as indicated. Altogether, therefore, we thus far have I-B-R-O-O-M-S-E-V-E-N-L-T.

Then we look to see what we're to do next. Well, the puzzle tells us to subtract what is obviously a BIN! So we cross out the letters B-I-N and then also take away the letter M, as directed, and we find that the letters left are R-O-O-S-E-V-E-L-T—which, of course, means that the name Roosevelt is the correct solution to this Sample Puzzle.

Get the idea? Then see what you can do about solving the official puzzles on the following pages—80 puzzles that can lead you to a winning of as much as \$10,000, simply by sending in your solutions in accordance with the rules as printed on this page.

Turn to the Official Puzzles Starting on Page 4.

80 PUZZLES... 100 PRIZES... ANSWER FORM... RULES

Read These Instructions Carefully:

How You Proceed:

YOU HAVE the opportunity to win \$10,000, \$2,000, \$1,000, or any of 500 cash prizes in this contest. FACTS MAGAZINE invites you to enter this contest and assures you that your solutions to the puzzles and everything concerning your entry will receive prompt, accurate and efficient consideration.

By reading these instructions carefully, and by following the rules, you will know exactly what to do in order to give yourself the best possible opportunity to win.

Can You Solve the 80 Puzzles?

There are 80 puzzles in this booklet. Can you solve them?

We suggest that before you try to solve the 80 official puzzles, you study carefully how the sample puzzle was solved on the front page of this booklet. Also, study the solution of the sample puzzle on the page at the left. Remember, the solutions to these puzzles will represent NAMES—names of persons, places, movies, books, plays, songs, in fact, all kinds of names.

How You Send In Your Solutions

THE 80 puzzles are divided into 20 Series of 4 puzzles each. A Series consists of 4 puzzles.

In this contest, you send in your solutions for one or more Series each week, in accordance with the dates specified for the various Series. An ANSWER FORM is provided for each Series. If you wish to send in your solutions faster than the dates specified, that is permissible. You can mail as many Answer Forms in the same envelope as you wish. Thus, it is entirely permissible to send in your solutions in advance of the dates specified in which event there may be some weeks in which you will not be mailing solutions due to the fact that you have previously mailed the solutions for such weeks.



Neatness Does Not Count Do Not Decorate Your Solutions

IN THIS contest, neatness does not count. Therefore, there is no point in decorating your answers. Please do not do so.

PLEASE WRITE OR PRINT CLEARLY

May we specially emphasize that you print or write your solutions, as well as your name and address as LEGIBLY AND CLEARLY AS POSSIBLE. This is vitally important to the sponsors in their effort to see that this contest is conducted as fairly, as accurately and as efficiently as possible. Also, please be careful in copying your solutions on the answer forms.

Regarding Solutions

When a black square appears in the diagram containing the space for the solution to any puzzle, that black square simply indicates that there is a separation between a first and last name or between initials. Also, remember that each object illustrated in a puzzle is a single word. Hyphenated words or compound terms are NOT used. For instance, a rocking chair is a rocker. Webster's New International Dictionary, 2nd Edition, is final authority in these matters.

Enclose 15 Cents In Coin With Each Series of Solutions

WHEN SENDING in each Series of solutions, the rules require that you enclose 15 cents in coin. Please wrap coins in a small piece of paper before inserting in envelope. In return for your remittances as provided in the rules you will receive the book issued by the Literary Classics Book Club. Literary Classics' purpose in this contest with FACTS MAGAZINE as sponsor is to popularize its bookclub.



Send In Your Solutions As Promptly As Possible

YOU NOW HAVE the 80 puzzles, the dates for submitting solutions, and all rules and details. Send in your solutions as promptly as possible. Try to win \$10,000, \$2,000, \$1,000 or any of 500 prizes. Address your envelope to PUZZLE CONTEST, Facts Magazine, Post Office Box 324, Church Street Post Office Annex, New York 8, N.Y.

THE PRIZES

| | |
|---|-----------------|
| 1st Prize | \$10,000 |
| 2nd Prize | \$2,000 |
| 3rd Prize | \$1,000 |
| 4th Prize | \$500 |
| 5th Prize | \$250 |
| 6th Prize | \$250 |
| 7th Prize | \$250 |
| 8th Prize | \$150 |
| 9th Prize | \$100 |
| 10th Prize | \$100 |
| Next 90 Prizes each \$10 | \$900 |
| Next 400 Prizes, each \$5.00 | \$2,000 |
| Total | \$17,500 |

Copyright, 1948, by Literary Classics, Inc.

BIG CASH PRIZES TO BE WON!

You Can Win \$10,000-\$2,000-\$1,000 - \$500 or any of 500 Prizes!

This Puzzle Contest Is Your Opportunity to Win \$10,000!

Can You Solve This Puzzle?

READ THIS EXPLANATION

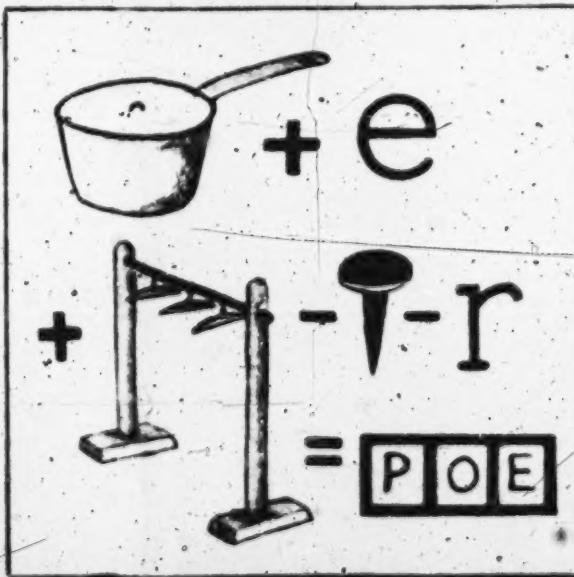
Just as you'll know how to proceed in solving the puzzles of this contest—and winning \$10,000.00 or any other of the 500 prizes listed, try solving this puzzle together.

Note, first of all, that there are various objects and letters, as well as plus and minus signs which tell you whether to add or subtract.

First thing we see is a POT. So we write down the letters P.O.T., adding the letter E as directed, after which we add STACK, which is illustrated. That gives us P.O.T.E.R.A.C.K.

Next we are told to subtract what is obviously a TACK. So we cross out the letters T.A.C.K., leaving us P.O.E.R., from which we are finally instructed to take away R, which we do to discover that the correct solution to this puzzle is the last name of the famous author, Edgar Allan POE.

(SAMPLE PUZZLE)



THERE'S OPPORTUNITY in the pages of this booklet—opportunity to win \$10,000.00, \$2,000.00, \$1,000.00 or any other of 500 cash prizes to be paid to those who achieve the highest scores in solving the puzzles of this contest in accordance with the rules.

Look these puzzles over. But first, study the SAMPLE PUZZLE shown at the left. Read the explanation accompanying it. Be sure you understand how you go about solving these puzzles. When you're sure that you have the idea, turn to the 80 official puzzles inside this booklet.

Each puzzle represents a famous name. The name may be that of a person, place, book, movie, play or song—in fact, any kind of name. By finding the name each puzzle represents, and sending in your solutions in accordance with the rules of the contest (as printed on page 2 of this booklet), you give yourself the opportunity to win as much as TEN THOUSAND DOLLARS!

Enter this contest NOW!

THE 80 OFFICIAL PUZZLES AND ANSWER FORMS Are Printed Inside

80 Consideration of the exhibits above described shows them to be convincing proof that this enterprise up to this stage thereof was presented to potential participants simply as a "puzzle contest." The language of the advertisements already quoted herein, as well as the oft-repeated statements to the effect that the contestant can win \$10,000 by solving the puzzles are not negated or explained away by any other language contained in the Rules of the contest or in any other written or printed matter furnished to the entrants. Reference to any feature other than puzzles to be considered by the participants in this contest is found only by close examination of the Rules, which represent that upon the occurrence of what appears to be a remote contingency the contestant will be called upon to submit a letter upon the subject "The Puzzle I Found Most Interesting and Educational in This Contest."

The evidence shows that approximately 90,000 persons completed the 80 puzzles contained in the above-described "puzzle contest" pamphlet Gov. Ex. 1-C. Inasmuch as 35,000 of these persons correctly solved all of the rebus puzzles, no entrant won the \$10,000 first prize, or any other prize offered for the solution of the aforesaid puzzles. The evidence in this case shows further that this result is in line with parallel past experiences of respondents in conducting the rebus contest known as the All American contest. In the All American contest, which resulted in the receipt through the mails by the Publishers Service Co. of approximately \$1,500,000, about 87 percent were accepted as having completed the first set of puzzles correctly.

The 35,000 persons who correctly completed "all 80 puzzles" were duly notified of this fact by the respondents by letters and thereafter received by registered mail the so-called "Tie-Breaker" set of puzzles, 80 in number.

81 The circular containing these "Tie-Breaker" puzzles now states the fact that should have been clearly set forth by the promoters at the outset, namely, that the entrant is required to pay an additional \$3.00 for the privilege of submitting solutions to the "Tie-Breaking" puzzles in order to remain in the contest (Gov. Ex. 10-F-6). He is also advised that upon payment of such fee he will "receive the August selection of the Literary Classics Book Club." The Club is simply a term used by the respondents, and no club exists in fact except for the purposes of exploiting the participants in this contest. The so-called "Tie-Breaker" puzzles are as simple and as easy to solve as those contained in the original booklet of "all 80 puzzles." This appears to be motivated by the promoters' desire for as many ties as possible with a correspondingly larger number of additional second

tie-breaker fees and double and quadruple prize entry fees which together with the original \$3.00 fee may total as high as \$45.00 per contestant. This is amply demonstrated by the fact that 27,000 of the 35,000 "tied" solved the first "tie-breaking" puzzles and thus became eligible to further participate in the "Hall of Fame Puzzle Contest," which they may do by furnishing the solutions to another series of 80 puzzles, with which must be paid an additional \$3.00 fee in order to continue the participant's eligibility to win the \$10,000 first prize.

Throughout the contestant's participation in this so-called "puzzle contest" up to this stage thereof, the fiction is maintained that the prizes may be won by those who correctly solve 82 all of the simple rebus puzzles sent them by the promoters.

However, the evidence in this case shows that beginning with the year 1941 (since which time all of the puzzle contests conducted by the Publishers Service Company have been solely for the benefit of that company and its subsidiaries) none of the rebus contests promoted by Mr. Sarazen and his associates have been won by the solution of the puzzles alone. Prior to that time contests were operated by this firm only as promotional schemes for other interests. The Music Appreciation, All American, and Read contests, which also were presented to the public as rebus puzzle contests, were finally decided not upon the basis of correct solutions to the puzzles by one person or by a number of persons submitting a lesser number of correct solutions than the first prize winner. All of said contests, which Mr. Sarazen testified were similar in pattern to the one here involved, were finally decided upon the basis of the best letter or essay written by the ultimately successful contestant. It was freely admitted at the hearing in this case that respondents anticipate and, in fact, planned that the current so-called "Hall of Fame Puzzle Contest" will similarly be decided upon the basis of the best letter written and not upon the basis of the correct solutions of the puzzles. It is therefore apparent from the evidence in this case, and I so find, that respondents knowingly and falsely represented to persons solicited to participate in the "Hall of Fame Puzzle Contest" that they could and would win the prizes offered by submitting the most correct solutions to the "all 80 puzzles" and later to the tie-breaking puzzles, whereas, in truth and in fact, as they well knew, such representations were untrue and this contest can only be won by solving all the puzzles and, in addition, writing what will finally be adjudged the best letter on the subject "The Puzzle I Found Most Interesting and Educational in This Contest." In other words, the contest is one in which the winners will be those who are the best letter writers.

83 The fact that the contest might be decided by a best letter is mentioned in the official rules only as a remote contingency, whereas, in truth, it was an inevitable certainty from the very beginning of the contest, as the respondents well knew.

As an additional device whereby remittances are obtained from the contestants, the promoters of the "Hall of Fame" contest have employed a so-called "double prize" feature, in connection with which the contestant is sent a "Form for Specifying Prize Eligibility" (Gov. Ex. 11-C). By the payment of a fee of \$12.00 over and above the fee of \$3.00 to accompany the puzzle submissions, the contestant becomes eligible for a \$20,000 prize instead of the originally stated \$10,000 in the event his entry is finally adjudged as the best. In the same manner, if the contestant remits \$6.00, his first prize, if any, is to be increased to \$15,000. These extra-remittances are described as being for the purpose of purchasing "subscriptions" in the Literary Classics Book Club for a period of four months or for a shorter period of two months, and the offer to increase the prizes in this manner is offered merely as "a marvelous opportunity" and not as an "obligation." However, it is seen from the content of the letter of transmittal (Gov. Ex. 11-B) that a definite effort is made to put the contestant in such a state of mind that he is left with the impression his failure to submit the "Prize Eligibility" form will jeopardize his opportunity to continue in the contest. The said letter informs the recipient:

This Prize Eligibility Form requires your signature in two places to enable you to become eligible to compete for as much as \$20,000 or \$15,000 as First Prize in accordance with the terms of the double prize offer, and in addition, provides the necessary spaces for signifying acceptance of the terms of the offer.

84 This Form and any extensions applying to same must become a part of your file in the contest, and we will thank you to fill in same and mail to us within five days after receipt by you if possible, or earlier if you can do so.

* * * * *

The Prize Eligibility Form should be filled in and mailed back to us within five days after you receive same if possible, or earlier if you can do so. The special mailing envelope enclosed herewith should be used for returning the Prize Eligibility Form. Please enclose in the same envelope the proper remittance for the Book Club memberships you send in. We will appreciate it if you will mail back the Prize Eligibility Form to us as soon as possible, because, again, I would like to point out that it must become a part of your file in the contest. [Italics supplied.]

The above-described "Prize Eligibility Form" is forwarded to the contestant after he has been advised that his solutions to the

first 80 puzzles were found to be correct, but that he is "tied" and therefore it will be necessary for him to solve and submit the "tie-breakers." After his solutions to the "tie-breaking" puzzles are found to be correct, the contestant is so advised, being told at the same time that he is still "tied" and that the "final tie-breaking puzzles are now being prepared." With this information he is also advised that another opportunity is being afforded him to increase the size of his prize money, and this time the first prize is increased to \$40,000. In order to become eligible for a prize of this amount it is necessary for the contestant to submit additional fees totaling \$24.00, assuming that he had previously complied with the \$20,000 prize offer. Four different letters, on four consecutive days, are sent to the participant concerning this second extra-prize offer (Gov. Ex. 10-G, 10-H, 10-I, 10-K) urging 85 him to take advantage of said offer by signing in the proper place and remitting fees in the proper amount. After being told in these communications that he should not sign the so-called "Appendage" (Gov. Ex. 10-J) unless he is genuinely interested in obtaining the books from the Book Club, that he should not do so merely to increase his possible prize money, the contestant is informed in the penultimate paragraph of the last of the group of four letters:

Permit me to point out once more that the Appendage *must become part of your file in the contest, and must be mailed back to us, postmarked before Midnight, Saturday August 25th.* [Italics supplied.]

The participant enters the contest upon the basis of representations and rules which lead to the belief that he will have to pay only a total of \$3.00 for the privilege of solving "all 80 puzzles." However, as the contest continues through its succeeding stages he is called upon by the promoters for ever-increasing remittances, amounting at this stage of the enterprise to as much as \$42.00. If he resists the demands or invitations to pay the additional sums necessary to qualify him for the double and quadruple prizes, he will nevertheless be compelled to remit a total of \$9.00 in order to remain in the contest up to and through the final stages, a fact which is not revealed to the participants at the outset. Aside from the failure of the promoters of this enterprise to make a clear and frank statement of what demands will be made upon the contestant and of the ultimate basis of prize awards, the rules which respondents claim contain this information are obscurely and ambiguously phrased. They are plainly calculated to conceal the true facts, which might discourage any potential contestant from entering the contest. It is apparent that respondents' contest promotional experiences

have demonstrated the financial advantages of using such obscurely worded rules. To plainly state the proposition to persons solicited to enter the contest would limit entrants to those who were convinced of their superior essay-writing abilities; whereas, the lure in the present case is to persons who, finding the "All 80 puzzles" so obviously, simple of solution, believe themselves entirely capable of winning the \$10,000 prize merely by submitting such correct solutions and paying the small sum of \$3.00 in weekly remittances of 15 cents each. Even those who most scrupulously study the so-called "Official Rules" and consider their content in connection with the other representations printed in juxtaposition thereto could not divine the facts which are well known to the promoters but not to the contestants: namely that participation costs more than \$3.00; that so-called "tie-breakers" are inevitable, and that the contest can be won only by the person writing the best letter upon the subject "The Puzzle I Found Most Interesting and Educational in This Contest," with respect to which it is stated that "only in case ties exist after such final tie-breaking puzzles have been checked will the letters be considered" * * * *

Upon the basis of the whole record in this case I find that deception of the contestant is the essence of the scheme.

That the representation was made by the promoters that "there exists a probability that the contestant will become a prize winner

merely by the submission of correct solutions to the first
87 group of 80 puzzles" is clearly evidenced by the exhibits
introduced by the Government. Among other statements
made to the contestant is the one that "The contest closes June
16th, 1945" (Gov. Ex. 7-B) this being the final date for the sub-
mission of the first 80 puzzles. In the same exhibit the contestant
is told that the winners' names will be announced "after the con-
test is closed." If the prospective contestant examines the rules
he again finds representations that there is a probability that
the contest will close with the judgment of the first 80 puzzles.
The promoters use such language as "In case of ties," "if two or
more persons tie in submitting the correct solutions," stating that
in that event only will the contestant have to solve a tie-breaking
group of puzzles. Only in the rules does the potential contestant
find any reference to the "tie-breakers," and the need for sub-
mitting solutions to them is spoken of merely as a remote possi-
bility. The truth of the matter is, as the promoters well knew,
that thousands of contestants would inevitably tie not only in
their solutions to the first 80 puzzles but in their solutions to the
so-called "tie-breaking" puzzles as well. The Secretary-Treasurer
of the respondent corporation testified that 35,000 persons were

"tied" in their solutions to the first 80 puzzles and 27,000 "tied" in their solutions to the second or "tie-breaking" group of puzzles. In the "All American" contest previously conducted by this corporation, at least 95,000 entrants submitted correct solutions to the first group of puzzles (similar to those here involved) and were permitted to participate in the second phase of that contest. The greater the number of "ties" the more profitable this so-called "puzzle contest" is to its promoters.

88 In oral argument, as well as by brief, stress has been placed by respondents' counsel upon their contention that the official rules of the contest as they appear in certain of the exhibits clearly describe the contest as it is actually operated, and that a study of those rules disproves all of the charges brought by the Government in this case. It would appear from various statements by counsel that no consideration at all is to be given to the remainder of the advertising matter distributed by the respondents concerning this contest, to determine what representations were made relative thereto. Several citations were offered by Government counsel of court cases in which was found judicial definition with respect to fraud as applied to the mail fraud statutes, all of which citations show it to be the consistent holding of the courts that not only one small part of an advertiser's representations is to be considered in determining whether there is fraud present, but that consideration must be given to the representations in their entirety.

In *Barnhill vs. U. S.* (90 Fed. 2d, 116), it was stated by the court that "a representation may be made expressly or it may be gathered from the whole tenor or partially so from the entire writing or language used. Representations made are those which are intended by the party to be acted upon by those to whom it may be addressed," and the jury was instructed that "fraud or deception to justify conviction for using the mails to defraud may be by implication reasonably derived by the reader of the representations made as well as by the express words." In the case of *Farley vs. Simmons* (99 Fed. 2d, 343), the court ruled that "an advertisement so worded that it does not make an express misrepresentation but artfully designed to mislead those responding to it is subject to the mail fraud statute." Examination of

89 the respondents' advertisements, including those photostatically reproduced herein, shows how frequently and emphatically contestants were told they could win prizes by solving the puzzles, without being warned that the awards would actually be based upon the best letters submitted. Deception was thus practiced upon the contestant as averred in the memorandum of charges in this case.

Moreover, even when consideration is given to the rules alone, without regard to the other representations made by the respondents, it is seen that fraud and deception are practiced thereby upon the prospective contestants.

I find from a consideration of all the evidence before me in this matter that the respondents at the outset knew and expected that this contest, as the previous ones to which reference has already been made, would be finally determined not upon the basis of the accuracy of puzzle solutions, but upon a judging of the letters submitted by tying contestants. I further find, giving consideration not only to the published rules for the contest but to the advertising literature as a whole, that the character of the contest was misrepresented as charged by the Government in its memorandum of charges; and, therefore, that the respondents are engaged in conducting a scheme for obtaining money through the mails by means of false and fraudulent pretenses, representations, and promises in violation of the postal fraud statutes.

It is therefore recommended that a fraud order be issued against Puzzle Contest, Facts Magazine; Contest Editor, Facts Magazine; Judith S. Johnson, Contest Editor; Miss J. S. Johnson, Contest Editor; Contest Editor; Facts Magazine; and Henry Walsh Lee, Editor in Chief, Facts Magazine and their officers and agents as such at New York, New York.

(Signed) VINCENT M. MILES, *Solicitor.*

92 In the District Court of the United States

[Title Omitted.]

[File endorsement omitted.]

Affidavit of John J. Gregory

Filed Oct. 16, 1945

DISTRICT OF COLUMBIA, ss:

John J. Gregory, being first duly sworn, states:

That I am employed as an attorney in the Office of the Solicitor of the Post Office Department at Washington, D. C.

That I am in charge of a section of that office which, among other duties, passes upon the mailability of matter under the postal lottery statutes.

That there has been brought to my attention an affidavit filed by Henry Walsh Lee in support of a Complaint filed by Read Magazine, Inc., et al., in the District Court for the District of Columbia for temporary restraining order and a preliminary injunction against the enforcement by the Postmaster General of fraud order No. 29273, dated October 1, 1945, which affidavit contains the following allegation as part of paragraph 15: "The announcement and rules of the 'Hall of Fame' contest were presented to Mr.

Gregory of the Office of the Solicitor to the Postmaster General for review. He passed them as mailable."

93 That this statement is absolutely incorrect and the facts of the matter are quite to the contrary.

That on March 10, 1945, before the contest was advertised to the public, Mr. Leonard S. Melrod, an attorney associated with Mr. Alvin Newmyer, of Washington, D. C., called at my office and displayed to me two advertisements of the Facts Magazine puzzle contest.

That Mr. Melrod at that time requested my advice as to the mailability of the advertisements in question, whereupon I informed him that the Solicitor's Office could not undertake to furnish any ruling upon this particular scheme, particularly in view of the fact that the complete details thereof were not before the office for examination. I further explained to Mr. Melrod that this scheme is identical with a number of others which in the past were investigated by post office inspectors and found to be in conflict with the postal lottery statutes.

That Mr. Melrod was further informed by me that in the event the mails were used in the operation of this scheme, it would be necessary for the promoters to accept full responsibility for any violation of law involved.

That neither upon this occasion nor at any other time have I advised anyone that the literature advertising the contest in question is regarded as mailable.

JOHN J. GREGORY.

Subscribed and sworn to before me, a Notary Public in and for the District of Columbia, this 8 day of October 1945.

C. C. WARREN,
Notary Public.

My commission expires Aug. 22, 1950.

94 In the District Court of the United States

[Title omitted.]

[File endorsement omitted.]

Order

Filed Oct. 19, 1945

Plaintiffs' motion for a preliminary injunction having come on before me to be heard and upon consideration of the complaint, the notice of motion, the affidavits in support thereof, the affidavits in opposition thereto, and after hearing argument of counsel for the respective parties, and it having been stipulated by and be-

tween the attorneys for the parties thereto that the defendant would file his motion for summary judgment on October 22, 1945, and due deliberation having been had thereon, and upon the stipulation of the attorneys for the parties made in open court, it is hereby

Ordered that the stay contained in the order of this Court in this action dated October 2, 1945, be and the same hereby is continued to the date of the entry of the order of this Court upon said motion for summary judgment; and it is further

Ordered that pending the order of this Court upon said motion for summary judgment herein plaintiffs and their agents deposit

95 daily beginning October 20, 1945 in the registry of this Court the sum of all monies and the proceeds of all checks and money orders received by them as qualifying fees for participation in a certain contest known as Facts Magazine's Hall of Fame Puzzle Contest now being conducted by plaintiffs and their agents beginning as of 2:30 P. M. October 19, 1945, together with a list of the names and addresses of the persons who remitted such qualifying fees to be retained in said registry pending the further order of this Court; and it is further

Ordered that pending the order of this Court on said motion for summary judgment the defendant by his agent or representative may attend at the office of the plaintiffs and their agents at the time of the opening of the mail hereinafter referred to and examine the contents of all mail received by Puzzle Contest, Facts Magazine; Contest Editor, Facts Magazine; Judith S. Johnson, Contest Editor; Contest Editor; Facts Magazine, and Henry Walsh Lee, Editor in Chief, Facts Magazine.

Dated October 19, 1945 at Washington, D. C.

ALEXANDER HOLTZOFF,
Justice, United States District Court.

The above entitled order is consented to.

CUMMINGS & STANLEY,
Attorneys for Plaintiffs.

DANIEL B. MAHER,
Attorney for Defendant.

96 In the District Court of the United States

[Title omitted.]

[File endorsement omitted.]

Motion of the defendant 1. To dismiss the complaint; or in the alternative for summary judgment

(Filed Oct. 22, 1945)

Comes now the defendant, Robert E. Hannegan, Postmaster General of the United States, and respectfully moves the Court as follows:

1. To dismiss the plaintiff's complaint for failure to state a claim upon which relief may be granted.
2. For summary judgment pursuant to rule 56 (b) of the Federal Rules of Civil Procedure, on the ground that there is no genuine issue as to any material fact and that the defendant is entitled to judgment as a matter of law.

Edward M. Curran.

EDWARD M. CURRAN,

United States Attorney.

By D. M.

Daniel B. Maher.

DANIEL B. MAHER,

Assistant United States Attorney.

97 In the District Court of the United States

[Title omitted.]

[File endorsement omitted.]

Affidavit in support of summary judgment

In support of the motion for summary judgment the defendant incorporates herein the affidavit of Vincent M. Miles filed in opposition to the motion for preliminary injunction together with exhibits A-1 to A-9 which were attached thereto; and the affidavit of John J. Gregory filed in opposition to the motion for preliminary injunction, and the transcript of proceedings before the Postmaster General which was offered in evidence by the plaintiff at the hearing of the motion for preliminary injunction; and the Government's exhibits 1 to 12 which were received in evidence at the hearing on the fraud order and are attached hereto and hereby made a part hereof.

Daniel B. Maher,

DANIEL B. MAHER,

Assistant United States Attorney.

98 In the District Court of the United States

[Title omitted.]

[File endorsement omitted.]

Motion for summary judgment

Filed Oct. 26, 1945

Plaintiffs move the Court as follows:

That it enter, pursuant to Rule 56 of the Federal Rules of Civil Procedure, a summary judgment in plaintiffs' favor for the relief demanded in the complaint on the ground that there is no genuine issue as to any material fact and that plaintiffs are entitled to a judgment as a matter of law.

This motion is based upon (a) pleadings on file in this action; (b) the affidavit of Henry Walsh Lee, sworn to October 2, 1945, heretofore filed in this action; (c) the transcript of the proceedings had before the Assistant Solicitor of the Post Office Department on September 4 and 5, 1945, heretofore marked "Exhibit 1" in this action; (d) the exhibits received in evidence and marked for identification in said proceeding before the Assistant 99 Solicitor of the Post Office Department; (e) the affidavit of Leonard S. Melrod, sworn to October 19, 1945.

Dated, Washington, D. C., October 24, 1945.

Yours, etc.

CUMMINGS & STANLEY,
By WILLIAM STANLEY,
A Member of the Firm,
Attorneys for Plaintiffs,
1616 K Street NW, Washington, D. C.

To: Honorable EDWARD S. CURRAN,

United States Attorney,

Attorney for Defendant.

Honorable TOM CLARK,

Attorney General of the United States.

[Title omitted.]

[File endorsement omitted.]

Affidavit of Leonard S. Melrod

Filed Oct. 26, 1945

DISTRICT OF COLUMBIA, ss:

I, Leonard S. Melrod, being first duly sworn on oath according to law, depose and say:

That I am an attorney at law, engaged in practice in the District of Columbia in association with the law firm of Newmyer and Press, with offices in the Rust Building, Washington, D. C.; that on March 10, 1945, at the request of an official of Publishers Service, Inc., a corporation, of New York, New York, I presented to Mr. John J. Gregory, an attorney in the Office of the Solicitor of the Post Office Department, Washington, D. C., a copy of the proof of an advertisement announcing a puzzle contest which was to be sponsored by "Facts" magazine and was scheduled for publication in the Altoona Tribune, Altoona, Pennsylvania, and other newspapers, and I also presented to him a copy of the April 1945 issue of "Facts" magazine, which contained the official rules of the puzzle contest. The actual copy of the proof presented and the said issue of "Facts" are both attached hereto.

I stated to Mr. Gregory that my office was requested to submit the proof and the magazine to the Solicitor, as noted in red pencil

on the proof attached hereto, because "Facts" desired to 101 know whether the ad and the official rules of the contest, or either of them, violated the Postal Regulations and would for that reason not be mailable. After reading the official rules and examining the advertisement, Mr. Gregory stated that, based on his preliminary review, he could see nothing that would constitute a violation of the Regulations which would render the material not mailable. However, Mr. Gregory did state that since the entire puzzle contest was not before him, he could not give a firm opinion on the contest; that it was not the policy of his office to give advance opinions upon the legality of such contests; and, accordingly, he did not express any firm opinion as to whether the contest did or did not involve a violation of the statute relating to lottery. He did state that if, after the contest was started, it was found that the contest did violate the statute, then the promoters would have to accept the responsibility for any violation of law involved. Mr. Gregory did not state to me that the puzzle

contest submitted was identical with earlier contests which were found to be in conflict with the statute.

"After my conference with Mr. Gregory, I promptly reported the foregoing to Publishers Service, Inc.

LEONARD S. MELROD.

Subscribed and sworn to before me this 19th day of October 1945.

MARGARET MCPHERSON,
Notary Public, D. C.

102 District Court of the United States for the District of Columbia

Civil Action No. 30926

READ MAGAZINE, INC., ET AL., PLAINTIFFS

v.

ROBERT E. HANNEGAN, ETC., DEFENDANT

Opinion

Filed Nov. 15, 1945

Motions for summary judgment.

James W. Burke, Jr., Esq., and Lamar Hardy, Esq., of New York; and Homer Cummings, Esq., and William Stanley, Esq., of Washington, D. C., for the plaintiffs.

Edward M. Curran, Esq., United States Attorney, and Daniel B. Maher, Esq., Assistant United States Attorney, of Washington, D. C., for the defendant.

This is an action against the Postmaster General for an injunction restraining the enforcement of a so-called "fraud order" issued by him against "Facts" Magazine and certain of its editors. The matter came on to be heard on the plaintiffs' motion for a preliminary injunction. At the conclusion of the hearing, the court indicated that it would advance the action for an immediate trial on the merits and that in the meantime the temporary restraining order, previously issued by another justice of this court, would be continued, subject to certain limitations needed to safeguard the rights of the Government. Counsel for the Government there-

upon stated that since all of the pertinent facts were pre-
103 sented in the papers before the court and were not in dis-

pute, he was willing to submit the case for a determination on the merits forthwith and to that end would file a motion for a summary judgment. Counsel for the plaintiffs acquiesced in this suggestion. Accordingly, both parties filed motions for summary

judgment. The case will be disposed of on these motions. This procedure is appropriate in a case in which the evidentiary facts are not substantially in dispute, and the conflict arises only concerning the ultimate conclusions to be drawn from uncontested facts, *Fox v. Johnson and Wimsatt*, 75 U. S. App. D. C. 211, 218-219; *Otis Co. v. Pennsylvania Ry. Co.*, 61 F. Supp. 905.

The plaintiff, Read Magazine, Inc., is the publisher of a magazine known as "Facts." In April 1945, the magazine published an advertisement inviting the public to participate in a puzzle-contest. The Postmaster General ruled that the contest was a fraudulent scheme and on October 1, 1945, acting under Sections 3929 and 4041 of the Revised Statutes (U. S. Code, Title 39, Secs. 259 and 732),¹ issued a "fraud order" against the magazine and certain of its editors.

104 The order forbid the Postmaster at New York to pay any postal money order drawn to the order of Puzzle Contest, Facts Magazine; Contest Editor, Facts Magazine; Judith S. Johnson, Contest Editor; Miss J. S. Johnson, Contest Editor; Contest Editor; Facts Magazine; and Henry Walsh Lee, Editor in Chief, Facts Magazine; and instructed him to return to the Postmasters at the offices, at which they were originally mailed all letters and other mail matter directed to any of the above-mentioned persons or concerns. The mail matter thus returned was to be delivered to the senders thereof with the following words written or stamped on the outside: "Fraudulent: Mail to this address returned by order of Postmaster General." The order further provided that if there was nothing to identify the senders the mail matter should be sent to the dead-letter branch. This action to enjoin the enforcement of the fraud order was brought by the publishers and editors of the magazine and corporations affiliated with the publishers.

¹ The pertinent portion of U. S. Code, Title 39, Section 259, reads as follows: "The Postmaster General may, upon evidence satisfactory to him that any person or company is engaged in conducting any lottery, gift enterprise, or scheme for the distribution of money, or of any real or personal property by lot, chance, or drawing of any kind, or that any person or company is conducting any other scheme or device or obtaining money or property of any kind through the mails by means of false or fraudulent pretenses, representations, or promises, instruct postmasters at any post office at which registered letters or any other letters or mail matter arrive directed to any such person or company, or to the agent or representative of any such person or company, whether such agent or representative is acting as an individual or as a firm, bank, corporation, or association of any kind, to return all such mail matter to the postmaster at the office at which it was originally mailed, with the word 'Fraudulent' plainly written or stamped upon the outside thereof; and all such mail matter so returned to such postmasters shall be by them returned to the writers thereof, under such regulations as the Postmaster General may prescribe." ***

The pertinent portion of U. S. Code, Title 39, Section 732, reads as follows: "The Postmaster General may, upon evidence satisfactory to him that any person or company is engaged in conducting any lottery, gift enterprise, or scheme for the distribution of money or of any real or personal property by lot, chance, or drawing of any kind, or that any person or company is conducting any other scheme for obtaining money or property of any kind through the mails by means of false or fraudulent pretenses, representations, or promises, forbid the payment by any postmaster to said person or company of any postal money orders drawn to his or its order, or in his or its favor, or to the agent of any such person or company, whether such agent is acting as an individual or as a firm, bank, corporation, or association of any kind, and may provide by regulation for the return to the remitters of the sums named in such money orders."

105 The advertisement of the puzzle contest comprised a detailed set of rules. In brief, the contest was to be conducted in the following manner. A group of 80 puzzles, divided into 20 series of four puzzles each, was to be offered for solution. Each entrant was required to pay the sum of fifteen cents on submitting the solutions for each series. In other words, each entrant had to pay in the aggregate the sum of \$3 as a fee for his participation in the contest. In case of a tie, an additional group of 80 puzzles was to be solved by the contestants who had not been eliminated. Again, the second group of puzzles was to be divided into 20 series of four puzzles each, and the sum of fifteen cents had to accompany the solution of each series, or in the aggregate a further sum of \$3. If there was a tie at the second stage, the same process was to be repeated, with a further sum aggregating \$3 to be paid by each contestant. At this third and final stage, however, each competitor would be required to submit, in addition to his solution of the puzzles, a letter on the subject "The Puzzle I Found Most Interesting and Educational in this Contest." If a tie still persisted, the prizes were to be

106 awarded on the basis of the merits of the letters. There were to be 500 cash prizes, aggregating the sum of \$17,500. The first prize was to be the sum of \$10,000. The purpose of the contest was to advertise a series of books published by the plaintiff, Literary Classics, Inc. At each stage of the contest, each successful competitor was to receive a book published by this plaintiff, said to be worth \$3. In each instance the book was a reprint of a well known classic.

The Act under which the Post Office Department acted is a beneficent measure intended to protect the public against fraudulent stratagems and artifices. Its efficacy is found in the fact that it can be used to suppress such schemes summarily and expeditiously, by barring the guilty party from the use of the mails. The history of the administration of the statute indicates that it has been instrumental in protecting the public from imposition by rogues and swindlers. The effectiveness of the statute, however, is due to its exceedingly drastic character, resulting from both the nature of the remedy and the summary manner in which it can be invoked by administrative action.

It seems reasonable to assume that the law was originally directed against schemes that were palpably dishonest and concerns that were obviously fraudulent. To deny to such a person the use of postal facilities is just retribution. A different problem arises, however, when it is attempted to apply this drastic remedy to a border-line case, or to a legitimate concern which is engaged in a business that is admittedly lawful, with the exception of one of many activities. The effect of a fraud order is to stop all mail

107 directed to the person or concern named in it. It necessarily comprehends both mail relating to legitimate business as well as that affecting the fraudulent activities. It even applies to purely personal and social correspondence, including that from members of one's family. It deprives the person affected by the order of the right of access to the principal channel of communication with other members of society. In effect he becomes an outcast or outlaw, and is completely isolated, so far as concerns ordinary and usual means of communication. Such an order results in ignominy and humiliation. Its consequences may be disastrous and even catastrophic.

In *Pike v. Walker* (U. S. Ct. App. D. C.) 73 App. D. C. 289, 291, Groner, J., pointedly remarked:

"Whatever may have been the voluntary nature of the postal system in the period of its establishment, it is now the main artery through which the business, social, and personal affairs of the people are conducted and upon which depends in a greater degree than upon any other activity of government the promotion of the general welfare. Not only this, but the postal system is a monopoly which the government enforces through penal statutes forbidding the carrying of letters by other means."

Recently the same court observed that modern mail service "is a highway over which all business must travel," *Esquire v. Walker* (U. S. Ct. App. D. C.) 151 F. (2d) 49, 51.

A serious question of statutory construction may perhaps be lurking in this case, namely, whether it was the intent of the Congress that this statute should be applicable against a concern or a person pursuing some activities that are admittedly honest and lawful, in addition to the scheme branded as dishonest, or whether it was intended to be limited to persons and concerns who 108 engage solely in fraudulent activities. If the former construction is to be adopted, the result is to cut off a person from receiving any proper mail, or from having any lawful means of communication in respect to his legitimate activities, if he is found guilty of engaging in some other endeavor which is deemed to be fraudulent. This outcome would be a modern form of outlawry, which seems contrary to our fundamental ideals of justice.

The Supreme Court stated in *United States v. Kirby*, 7 Wall. 482, 486-487:

"All laws should receive a sensible construction. General terms should be so limited in their application as not to lead to injustice, oppression, or an absurd consequence. It will always, therefore, be presumed that the legislature intended exceptions to its language, which would avoid results of this character. The reason of the law in such cases should prevail over its letter."

See also *Church of the Holy Trinity v. United States*, 443 U. S. 457; *United States v. American Bell Telephone Co.*, 159 U. S. 548, 549; *Sorrells v. United States*, 287 U. S. 435, 446. It is not necessary, however, in the light of the conclusion about to be reached to determine this question of statutory construction.

Assuming that the case is within the statute, it becomes necessary to define the scope and extent of judicial review of a "fraud order" issued by the Postmaster General. The duty of administering the law devolves on him. The discretion is vested in him. The determination of the fact whether a fraudulent scheme is being conducted must be made by him "upon evidence satisfactory to him." The court may not substitute its own judgment for that of the Postmaster General. Neither may it review the 109 weight of evidence and set aside his action merely because the court might have arrived at a different result on the same evidence. If, however, the court reaches the conclusion that there is no substantial evidence to sustain the administrative determination, or if it finds that the administrative action was arbitrary or capricious, or lacking in due process of law from a procedural standpoint, the court may enjoin the enforcement of the order.

These principles are fully sustained by the authorities. The Supreme Court in the leading case of *School of Magnetic Healing v. McAnnulty*, 187 U. S. 94, 110, formulated the governing principles as follows:

"In such a case, as the one before us, there is no adequate remedy at law, the injunction to prohibit the further withholding of the mail from complainants being the only remedy at all adequate to the full relief to which the complainants are entitled. Although the Postmaster General had jurisdiction over the subject-matter (assuming the validity of the acts) and therefore it was his duty upon complaint being made to decide the question of law whether the case stated was within the statute, yet such decision being a legal error does not bind the courts."

In that case the court held that an order withholding mail from a concern teaching mental healing had been erroneously issued and that its enforcement should be enjoined.

In *Aycock v. O'Brien*, 28 F. (2d) 817, the Circuit Court of Appeals for the Ninth Circuit thus summarized the applicable rules of law:

"While within a limited range courts of equity will grant relief against orders of this character, it is well settled that they will not interfere where there has been no mistake of law, a fair hearing has been accorded, and the findings of the administrative officers

upon issues of fact are supported by substantial evidence."

110 The Circuit Court of Appeals for the Sixth Circuit in *Jarvis v. Shackleton Inhaler Co.*, 136 F. (2d) 116, 119 enunciated the same doctrine as follows:

"The power of a court of equity to review the order is limited. It extends no further than to determine whether there is substantial evidence in fact, as distinguished from opinion, to support the order. If there is, the case is foreclosed against appellee. If there is not, it follows that appellee has suffered irreparable injury to its property rights."

In that case an injunction was granted restraining the enforcement of a fraud order against a concern engaged in manufacturing and marketing an inhaling compound for the relief of colds and similar ailments.

On the basis of the authorities, the only question for this court to review in the instant case is whether there was any substantial evidence to sustain the administrative determination that the publishers and editors of Facts Magazine were conducting or operating a scheme or device for obtaining money through the mails by means of fraud, or false pretense, representations or promises. As the facts are not in dispute, the answer to the question depends upon an examination of the advertisement and other literature emanating from the editors of the magazine.

The Postmaster General found three objections to this material. The first objection was that the contest was denominated a "puzzle contest" in large type, while a reading of all of the Rules of the contest printed in small type disclosed that if a number of contestants were tied after two stages of elimination, it would be necessary for the remaining competitors to submit letters in addition to solving puzzles. The Post Office Department 111 took the position that this feature of the contest changed its nature from that of a puzzle contest to what might presumably be called a letter-writing contest and that, therefore, to denominate it a puzzle contest was a misnomer amounting to a fraud. This dispute seems, however, to be solely over nomenclature. The nature of the contest could be ascertained from reading the entire advertisement.

The second objection was that it did not clearly appear from the advertising matter that a contestant might be obliged to remit an aggregate amount of \$9 in order to remain in the contest to its final stage. It was merely stated in the announcement that the sum of 15 cents had to accompany the solution of each set of puzzles. The sum total of \$9 could be easily reached, however, by a multiplication of the figures appearing in the advertisement.

The third objection was that it was represented to the public

that the contestant might become a prize winner merely by submitting correct solutions to the first group of 80 puzzles. The official rules of the contest, however, printed in small type in the body of the advertisement contained an express statement that a large number of entrants was expected and that ties between successful competitors were likely.

Indeed, the advertisement is by no means a model of clarity and lucidity. It is diffuse and prolix, and at times somewhat obscure. Many of its salient provisions are printed in rather small type. An intensive and concentrated reading of the entire text is indispensable in order to arrive at an understanding of the entire scheme. Nevertheless, a close analysis of this ma-

112 material discloses the complete plan. Nothing is omitted, concealed or misrepresented. There is no deception. The well-founded criticisms of the plaintiff's literature are a far cry from justifying a conclusion that the announcement was a fraud on the public. Similar animadversions may be directed against the typical insurance policy, bill of lading, or express receipt. Some of the vital terms of most of these documents are generally printed in small type and couched in phraseology that is difficult for the average holder of the instrument to comprehend. These considerations, however, do not justify an inference of fraud. Under no circumstances, therefore, can the puzzle contest and its descriptive literature be considered a fraudulent device or stratagem for obtaining money. The conclusion is inevitable that there is no evidence to support the finding of fact on which the fraud order is based and that, therefore, the plaintiff is entitled to a permanent injunction against the enforcement of the order.

As in this case this Court sits as a court of equity, it is not amiss to consider and weigh the equities involved. The undisputed facts are that over 189,000 persons entered the contest at its inception. Approximately 35,000 persons were left after the unsuccessful competitors were eliminated at the first stage. Eight thousand more were eliminated at the second stage, and 27,000 entrants still remain at the third and final stage of the contest. Eventually a considerable number of them would become entitled to receive valuable cash prizes, if the contest is carried to a conclusion. Each of these persons has already paid entrance fees aggregating at least \$6 and has spent considerable time and effort, which

113 may have been arduous, in solving 160 puzzles. To foreclose the plaintiffs by administrative fiat from carrying the contest to a final termination would seem unfair and inequitable to these 27,000 members of the public, who still remain in the contest and who have invested time, effort, and money.

If we consider the matter from the standpoint of the plaintiffs, we find that although they have received over \$760,000 in entrance fees, they have expended or have become obligated to expend, a sum aggregating in excess of \$935,000. This total comprises the aggregate cash value of the prizes, amounting to \$105,000, the cost of the books that have been distributed, as well as other items of expense in conducting the contest, such as the printing, advertising, postage and other overhead disbursements. Every competitor who has submitted solutions of all the puzzles at either the first or second stage of the contest has received a book, which is a reprint of a well-known classic. Many have received two books. It is quite apparent that the magazine initiated the contest not as a profit-making scheme, but for the purpose of advertising its many publications. In the light of all of these facts and especially because the fraud order did not become effective until after the second stage of the contest had been concluded, it seems inequitable to prevent the contest from proceeding to a final termination.

The plaintiffs' motion for summary judgment is granted. The defendant's motion for summary judgment is denied. Judgment for plaintiffs granting permanent injunction.

ALEXANDER HOLTZOFF,

Associate Justice.

NOVEMBER 15, 1945.

114 In the District Court of the United States

[Title omitted.]

[File endorsement omitted.]

Order continuing impounding order

Filed Nov. 27, 1945

An order having been made and filed in this action on October 19, 1945, by consent of the parties, directing plaintiffs and their agents to deposit in the Registry of this Court the sum of all moneys and the proceeds of all checks and money orders received by them as qualifying fees for participation in a certain contest known as Facts Magazine Hall of Fame Puzzle Contest then being conducted by plaintiffs and their agents, pending the order of this Court upon motions for summary judgment made by the respective parties, and said motion for summary judgment made by the plaintiffs having been granted, it is hereby

115 Ordered that the order of this Court in this action dated October 19, 1945 be and the same hereby is continued in

effect pending appeal of this cause, or until final disposition of any appeal taken.

November 27, 1945.

ALEXANDER HOLTZOFF, Justice.

116 In the District Court of the United States
for the District of Columbia

Civil Action No. 30,926

READ MAGAZINE, INC., LITERARY CLASSICS, INC., AND PUBLISHERS
SERVICE COMPANY, INC., HENRY WALSH LEE AND JUDITH S.
JOHNSON, 75 WEST STREET, NEW YORK, N. Y., PLAINTIFFS

v.

ROBERT E. HANNEGAN, INDIVIDUALLY AND AS POSTMASTER GENERAL
OF THE UNITED STATES, PENNSYLVANIA AVENUE, BETWEEN 12TH
AND 13TH STREETS, NW., WASHINGTON, D. C., DEFENDANT

Judgment granting permanent injunction

Filed Nov. 27, 1945.

The plaintiffs having filed their complaint praying for a permanent injunction against the enforcement of a fraud order issued by defendant in a proceeding before him entitled "In the Matter of Charges That Puzzle Contest, Facts Magazine; Contest Editor, Facts Magazine; Judith S. Johnson, Contest Editor; Miss J. S. Johnson, Contest Editor; Contest Editor; Facts Magazine; and Henry Walsh Lee, Editor in Chief, Facts Magazine, at New York, New York, are engaged in conducting a scheme for obtaining money through the mails by means of false and fraudulent pretenses, representations and promises, in violation of 39 U. S. Code 259 and 732 (Sections 3929 and 4041 of the Revised Statutes, as amended)," and defendant having filed his answer thereto and having made a motion for summary judgment, and plaintiffs having made a cross-motion for summary judgment, and the Court having heard oral argument and having found no genuine issue as to any material fact and no controversial issue of facts to be submitted to the trial court, and having concluded that plaintiffs are entitled to judgment as a matter of law; it is hereby

Ordered, adjudged, and decreed that defendant's motion for summary judgment be and the same hereby is denied, and that plaintiffs' motion for summary judgment be and the same hereby is granted; and it is further

Ordered, adjudged, and decreed that a permanent injunction be and the same hereby is granted enjoining defendant, his agents, servants and employees from (a) directly or indirectly doing or attempting to do any act or thing in pursuance of said fraud order, or enforcing or attempting to enforce said fraud order and (b) in any way interfering with the normal conductor of plaintiffs business as a consequence of the issuance of said fraud order.

Dated: November 27, 1945.

ALEXANDER HOLTZOFF, *Justice.*

125 In United States Court of Appeals
District of Columbia

The Court met pursuant to adjournment. Present: Honorable D. LAWRENCE GRONER, Chief Justice, HAROLD M. STEPHENS, HENRY W. EDGERTON, BENNETT CHAMP CLARK, WILBUR K. MILLER and E. BARRETT PRETTYMAN, Associate Justices.

Before Honorable HENRY W. EDGERTON, WILBUR K. MILLER and E. BARRETT PRETTYMAN, Associate Justices

No. 9268. October Term, 1946

ROBERT E. HANNEGAN, INDIVIDUALLY AND AS POSTMASTER GENERAL,
ETC., APPELLANT

vs.

READ MAGAZINE, INC., ET AL., APPELLEES

Minute entry

Oct. 17, 1946

On motion of Mr. Burdette M. Asbill, Mr. John W. Burke, Jr., of the Bar of the Court of Appeals of the State of New York was permitted to argue for appellees pro hac vice by special leave of Court.

Argument commenced by Mr. J. Francis Hayden, attorney for appellant, and concluded by Mr. John W. Burke, Jr., attorney for appellees.

126 United States Court of Appeals, District of Columbia

No. 9268

**ROBERT E. HANNEGAN, INDIVIDUALLY AND AS POSTMASTER GENERAL
OF THE UNITED STATES, APPELLANT**

v.

READ MAGAZINE, INC., ET AL., APPELLEES

**Appeal from the District Court of the United States for the
District of Columbia**

Argued October 17, 1946—Decided December 9, 1946

Mr. J. Francis Hayden, Special Assistant to the Attorney General with whom Mr. Edward M. Curran, United States Attorney at the time the brief was filed, and Mr. Sidney S. Sachs, Assistant United States Attorney, were on the brief, for appellant.

Mr. John W. Burke, Jr., of the Bar of the State of New York, pro hac vice, by special leave of Court, with whom Mr. Burdette M. Asbill was on the brief, for appellees.

Before EDGERTON, WILBUR K. MILLER, and PRETTYMAN, J. J.

Opinion

PRETTYMAN, J.: Appellant, as Postmaster General, issued an order forbidding the use of the mails to appellees. They brought a civil action in the District Court to enjoin enforcement of the order. That court granted their motion for summary judgment and granted a permanent injunction. This appeal followed.

Appellees publish two magazines and also publish books in the form of reprints of classical literature. In one of these magazines, they conducted a contest, called a puzzle contest, for large cash prizes. A group of eighty puzzles, divided into twenty series of four each, was initially offered for solution. The contest was promoted by national newspaper advertising, by extensive advertising in appellees' Facts Magazine, and by a booklet sent in response to coupons clipped from the advertisements. The "Official Rules of the Contest" were printed in full text in the newspaper and magazine advertisements and in the booklet. They contained the following:

"In case of ties, if two or more persons tie in submitting the correct solutions, then the first two or more prizes will be reserved for those contestants, and will be awarded in the order of accuracy of

the submissions of those contestants to a first, and if necessary, a second tie-breaking group of puzzles, divided into Series exactly like the first Group. In case a second tie-breaking Group of puzzles is necessary, contestants eligible to solve same will be required to accompany their solutions to this second tie-breaking Group of puzzles with a letter of not more than 200 words on the subject: 'The Puzzle I Found Most Interesting and Educational in This Contest.' All tie-breaking Series must be qualified in accordance with the provisions of Rule No. 8. Only in case ties exist after such final tie-breaking puzzles have been checked will the letters be considered, and in that event they will be judged on the basis of originality in description and general interest. In case of final ties, duplicate prizes will be awarded. Upon entering the contest, the entrant is asked to realize that the sponsor anticipates that a large number of persons may enter the contest and that a large number may solve one, two or all three of the Groups of puzzles, and that the sponsors will not make known the number of persons competing in any phase of the contest, irrespective of how large or how small that number may be. FACTS Magazine reserves the right to offer contestants the opportunity to win increased prizes, or to offer consolation prizes or additional prizes at any time prior to the conclusion of the contest."

These Official Rules were printed in the same type and with equal prominence with the remainder of the text of the advertisements, except for the headlines. They were likewise printed in full in the booklet of puzzles sent to each entrant. Contestants were told, both in the advertisements and in the booklet, to read the Rules—"The Rules are printed in full below. Please read them carefully and be sure you understand them." The Rules were repeatedly referred to in the advertisements and in the booklet. The entry blank itself recited that the entrant wished to qualify "in accordance with the official rules." The headlines at the top of the advertisements, in large headline type, were "\$10,000 First Prize—Puzzle Contest" and variations of the same terminology. The headlines and the text emphasized the puzzle feature of the contest. The contestants were told that they must enclose 10 cents with each series of four solutions, and that in return for the remittances for the twenty series, each contestant would receive a book issued by the appellee book company. Such books were duly sent each contestant as promised.

Contestants who solved the first group of eighty puzzles were sent a letter in which they were told that by buying additional books they could make themselves eligible for increased prizes.

128 The letters were quite emphatic in stating that eligibility for the original prizes remained whether or not the contestants wished to qualify for eligibility for the increased prizes.

At the time of the hearing in the Post Office Department, \$760,000 in fees had been received, and appellees had expended, or become obligated to expend, \$935,000, including prizes, books distributed, printing, advertising, etc. The completion of the contest was interrupted by the Post Office action.

Appellant says that appellees knew at the outset that the winners of the contest would be finally determined not upon the accuracy of puzzle solutions, but upon a judging of the letters submitted by the tieing contestants. He also puts much stress upon the communications sent to all contestants who successfully solved the first series of puzzles. He says that the scheme was cleverly designed and intended to create the impression (1) that eighty puzzles comprised the contest, (2) that the contest, though simple in nature, would be decided on the strength of the puzzles and without recourse to letter-writing, and (3) that it would cost not more than three dollars to become eligible for a prize.

Appellant does not claim that any statement in the advertisements was untrue or that there was any departure from the procedure announced in the Official Rules of the Contest. There is no claim by him that the judging of the letters was to be other than bona fide, or that any contestant failed to receive the promised books. No contestant, so far as the record shows, complained of being misled or defrauded. In other words, the fraud order is not premised upon specific or affirmative misstatements, or upon failure to perform as promised, but is premised upon an impression which appellant says is conveyed by the advertisements as a whole. He derives the impression from the headlines in the advertisements and the comparative urgency which he finds in some of the expressions in them.

The statutory clause under which appellant acted, authorizes him to forbid the use of the mails to any person or company conducting any "scheme or device for obtaining money or property of any kind through the mails by means of false or fraudulent pretenses, representations, or promises."¹

Findings of the Postmaster General in cases of this sort will not be disturbed by the court where they are fairly arrived at and have substantial evidence to support them.² Furthermore, "even if an advertisement is so worded as not to make an express mis-

representation, nevertheless, if it is artfully designed to mislead those responding to it, the mail fraud statutes are applicable."³ It is upon the latter rule that appellant relies in the case at bar.

¹ R. S. § 3929, 39 U. S. C. A. § 259.

² Farley v. Simmons, 69 App. D. C. 110, 114, 99 F. 2d 343, 347 (1938), and cases there cited.

³ *Id.* at 113, 99 F. 2d at 346.

The rule is broad; a false pretense, representation, or promise may be made by impression. But such impression must be fairly derived. As we said in *Farley v. Simmons*,⁴ the question is what the advertisement is "reasonably intended to cause the reader thereof to believe."

To support appellant's conclusion in this case, one must ascribe to the advertisements an impression directly contrary to the stated rules of the contest. One must thus assume that readers were led not to read the Rules, or were led to ignore them or to misunderstand them or to believe something else contrary to their statement. There is no evidence, we think, to support any of those assumptions. The Rules were legibly printed. They were emphasized, rather than minimized, in the text. They were clear to any reasonable mind. No contradictory expressions occurred elsewhere.

That this contest was an advertising device designed to promote the book-publishing business of appellees must have been plain to the most casual reader. The advertisements specifically told him, "This contest with Facts Magazine as sponsor, is being presented as a means of popularizing the Literary Classics Book Club." Moreover, the puzzles presented were so simple that patience and time were obviously the only requirements for the successful solution of the whole series. It is impossible to believe that any prospective contestant could think that only one person would be successful in the solutions. He was told in the Rules that the sponsors anticipated that a "large number" of persons would solve all the puzzles, and his own impressions must have told him the same thing.

We fail to see that the letters which were written to the contestants who successfully solved the first series of puzzles, cast any complexion upon the venture different from that cast by the original advertisements themselves.

We are told that the Postmaster General must be sustained if his action is within "the most malign interpretation which can in reason be put on" the advertisements, the quoted words being from an opinion of Judge Learned Hand while on the District Court in 1909.⁵ But that broad expression is limited by "in reason," and the judge's further description of the Postmaster General's power was circumscribed by the words "reasonably conclude."⁶ We

think that it must necessarily be contemplated that any
130 reasonable person proposing to enter a contest would read
the rules if he were cautioned to do so, and would under-

⁴ 69 App. D. C. at 114, 99 F. 2d at 347.

⁵ *Putnam v. Morgan*, 172 Fed. 450.

⁶ See our discussion of the same quotation in *Farley v. Simmons*, 69 App. D. C. 110, 114, 99 F. 2d 343, 347 (1938).

stand plain terms in them. To be within reason even the most malign impression must proceed from that minimum premise. If the Postmaster General's power were coextensive with the most malign impression to which advertisements might be susceptible, contrary to unambiguous terms plainly stated, he would be the unrestricted master of much of the country's business. We do not find that power in the simple and explicit language of the statute, which is limited to false or fraudulent pretenses, representations, or promises. Advertisements which are clearly not false or fraudulent frequently have a certain extravagance and urgency in their appeals, which to the most malign, and even to the mildly cynical, are beyond the boundary of precise accuracy. If a general impression contrary to terms plainly stated is to be the basis for a fraud order, it must, we think, be the impression reasonably conveyed to the public to which the advertisement is addressed. The impression which is the criterion is that of a reasonable reader, not the most malign impression uninhibited by reason. We so held in *Farley v. Simmons*.⁷

We think that the advertisements before us fairly urged contestants to read the Rules and that the Rules stated fairly, in style of type, placement, and terms, what was proposed. That being so, and there being no ambiguity in or departure from the proposals stated, a finding of false pretenses, representations, or promises could not properly be made. Legally speaking, that conclusion upon these facts was arbitrary and capricious.

We think that the District Court was correct in its judgment.

Affirmed.

Dissenting opinion

EDGERTON, J., dissenting: The falsity of appellees' advertising seems to me as clear as its truth seems to the majority of the court. The question before the court is not whether my view is right but whether it is reasonable.

Any language or conduct that is intended to convey a false impression is a false pretense. No special form is necessary. I think appellees, in several advertisements, made false pretenses concerning the nature of the contest, its extent and duration, and its cost to contestants. I shall discuss only one advertisement and only one sort of pretense.

The puzzles were simple. Appellees knew from experience with similar contests that thousands of contestants would solve all the puzzles correctly; that it was impossible to win a prize merely by solving puzzles; and that prize winners would be chosen from

131 among thousands of persons on the basis of a letter-writing contest. So much is plain and undisputed.*

It follows that if appellees intended to convey to all or any of their readers either (1) the idea that the contest was merely a puzzle contest or (2) the idea that there was a substantial chance that prizes would be won merely by solving puzzles, appellees made a false pretense. The fraud order must be sustained if the Postmaster General could reasonably find either of those intents. Either is plainly material, since a person who is willing to risk his money in a puzzle contest may be unwilling to risk it in a letter-writing contest and a person who is willing to face a possibility that puzzles may not be decisive may be unwilling to face a certainty that they will not be decisive.

Exhibit 1 is a full-page tabloid-size advertisement which appellees published in Newsday on April 3, 1945. Across the top of the page is printed in large black letters "Solve the 4 Puzzles Now—Mail Entry By Saturday Night, April 7th," and then "\$10,000 First Prize—Puzzle Contest." The words "Puzzle Contest" are in letters nearly an inch high. Next comes, in type much smaller than these headlines but much larger and heavier than the body of the advertisement: "Win \$10,000, \$2,000, \$1,000 or Any of 500 Cash Prizes in Facts Magazine's New, Delightful Puzzle Contest. Solve These 4 Puzzles Now! Write your solutions on the Entry Form below, and mail the Entry Form on or before Midnight, Saturday, April 7th!" Next follows a "Sample Puzzle—Just to Give You the Idea," and then: "Facts Magazine Invites You To Enter This Puzzle Contest. Accept this cordial invitation from Facts Magazine to enter its puzzle contest. Here is your opportunity to win \$10,000, \$2,000, \$1,000 or any of 500 cash prizes totaling \$17,500." These invitations, and not merely the headlines which precede them, are in larger and heavier type than the body of the advertisement.

The right-hand column of the advertisement is largely occupied by the "sample puzzle" and by four other pictured puzzles. These puzzles consist largely of crude drawings. Like most drawings they catch the eye.

An "Official Entry Form" is a conspicuous part of the advertisement. It calls the contest a "Puzzle Contest" and states that "the additional puzzles" will be sent on receipt of the form. It refers to "the official rules" but it does not refer to the writing of letters.

* Approximately 35,000 persons solved correctly the original group of 80 puzzles, and approximately 27,000 of these solved correctly all the puzzles in the first "tie-breaking" series. The Post Office proceedings prevented completion of a second tie-breaking series.

So far there is no suggestion in the advertisement that the contest will, or may, involve the writing of letters. So far there 132 is no qualification of the repeated and emphasized assertion that it is a puzzle contest. Obviously the conspicuous parts of the advertisement convey, and are intended to convey, the idea that it is merely a puzzle contest.

The court's theory seems to be that appellees intended to correct, in the course of the advertisement, the false idea that they intended its conspicuous parts to convey. It seems to me clear that they intended not merely that all readers should get that false idea, but also that many readers should retain it, and that all readers should retain, at the very least, the false idea that there was a substantial chance that prizes would be won merely by solving puzzles. This inference is, at least, one that the Postmaster General might reasonably draw. This is true because (1) the advertisement does not emphasize, but on the contrary diverts attention from, any language which mentions the writing of letters, and (2) even that language does not say that winners are, but clearly intimates that they are not, *certain* to be chosen on the basis of a letter-writing contest. Either of these facts alone is sufficient to support the Postmaster General's inference of fraud and therefore the fraud order. Both together are doubly sufficient.

(1) The words "The Rules are printed in full below. Please read them carefully and be sure you understand them" are in fine print, twelve lines to an inch, near the middle of the page. Attention is diverted from these words by their being printed at the end, not the beginning, of the paragraph in which they occur. The earlier and longer part of the paragraph deals with puzzles alone. This context conveys, not too subtly, the suggestion that the Rules likewise deal with puzzles alone.

The writing of letters is nowhere mentioned in type that is large or heavy or prominently placed. It is mentioned only in the Rules. The Rules are in fine print, twelve lines to an inch, in the lower left-hand corner of the page. They contain almost a thousand words divided into ten numbered paragraphs. The quotation on which the court relies, beginning with the words "In case of ties * * *" and ending with the words "* * * the conclusion of the contest," is a part of paragraph 9 of the Rules. That paragraph is the longest of the ten and therefore the least likely to be read in its entirety. It does not begin with the language which the court quotes. It begins with these words: "Neatness will not count. Do not decorate your answers. Just submit your solutions in accordance with the rules." Nothing could be better calculated to suggest to a prospective contestant (a) that the remainder of the paragraph, like its opening sen-

tences, is unimportant and need not be read, and (b) that the remainder of the paragraph, like its opening sentences, deals only with "answers" and "solutions." Then follows, beginning 133 in the middle of a line of fine print, with nothing to emphasize it or draw the reader's attention to it, the language which the court quotes and on which the court relies. It would have been easy for appellees to print this language in large type; or in heavy type, or to begin a paragraph with it, or to devote an entire paragraph to it, or to do several of those things. From any point of view but one and for any purpose but one, the importance of this language clearly demanded that attention be called to it in some way, since it was the only language in the entire advertisement which tended to qualify the numerous and conspicuous assertion of the headlines, the large type, the pictures, and the entry form that the contest was a puzzle contest. Instead of emphasizing this vital language, appellees did the opposite. They hid it as effectively as they could. In setting it in fine print, near the bottom of the page, in a paragraph introduced by matter both unrelated and unimportant, what can have been their purpose, except to prevent as many prospective contestants as possible from finding out that the contest might involve letter writing? No answer has been suggested. Unless the Postmaster General acted capriciously in drawing the only inference that has been suggested as possible, his fraud order must be sustained.

(2) If a prospective contestant discovered the language on which the court relies, and carefully read every word of it, he would learn that the "puzzle contest" was likely to end in a letter-writing contest for which a large number of persons might be eligible. But he would not learn that thousands of persons were certain to be eligible, or even that any letter-writing contest at all was certain to be required. Nothing of that sort is stated anywhere, not even by the hidden language on which the court relies. On the contrary, that very language intimates, clearly and repeatedly, that ties in the solving of puzzles may or may not occur and that although the prizes may not, on the other hand they may, be won by the solving of puzzles alone: "*In case* of ties, if two or more persons tie in submitting the correct solutions"; "*if necessary*, a second tie-breaking group of puzzles"; "*In case* a second tie-breaking group of puzzles is necessary"; "*Only in case* ties exist after such final tie-breaking puzzles have been checked will the letters be considered"; "the sponsor *anticipates* that a large number of persons *may* enter the contest and that a large number *may* solve, one, two or all three of the Groups of puzzles." [Italics supplied.] The court says that prospective contestants were "told in the Rules that the sponsors anticipated that a 'large number' of persons would solve all the puzzles." I cannot find

this statement in the Rules. In other words I do not agree with the court that "may" means "will."

For the foregoing reasons it seems to me clear that (1) the advertisement was intended and apt to convey to many contestants the false idea that the contest was merely a puzzle contest and (2) the advertisement was intended and apt to convey to all or nearly all contestants, including entirely reasonable and careful ones, the false idea that there was at least a substantial chance that prizes would be won merely by solving puzzles.

The court finds that no reasonable reader of the advertisement would think that prizes might be won merely by solving puzzles. Obviously this finding of fact seems to me erroneous. Many readers lacked the knowledge, based on experience with similar contests, which appellees had and this court now has. Moreover, I think the court's finding is immaterial. To say that it invalidates the fraud order is equivalent to saying that if a scheme would not deceive reasonable men, to whom it is not primarily addressed, it may legally be used to take money from children and other simple people. The advertisement is primarily addressed to such people, since they are the ones likely to be attracted by crude and easy puzzles. "The fact that a false statement may be obviously false to those who are trained and experienced does not change its character nor take away its power to deceive others less experienced."

The court says: "As we said in *Farley v. Simmons*, the question is what the advertisement is 'reasonably intended to cause the reader thereof to believe.'" Despite other language in the prevailing opinion, that appears to be the question which the court actually decides. But it is not the question before the court. It was the question before the Postmaster General. That is what we said in *Farley v. Simmons*. I think the court now confuses the Postmaster General's function with our own. The question before us is not what the advertisement was intended to cause the reader to believe, but what the Postmaster General could reasonably find that it was intended to cause the reader to believe. As Judge Learned Hand and this court have said, the Postmaster General was entitled to put "the most malign interpretation which can in reason be "put" on appellees' advertisement."¹⁰ Conceding for the sake of argument that there may be some doubt whether appellees intended to convey a false idea, I do not see how there can be any doubt that the Postmaster General might reasonably

¹⁰ *Federal Trade Comm. v. Standard Education Society*, 302 U. S. 112, 116.

¹¹ *Fulnom v. Morgan*, 172 Fed. 450 451 (C. C. S. D. N. Y.); *Farley v. Simmons*, 69 App. D. C. 110, 115, 99 F. 2d 343.

find what he found. Neither, apparently does appellees' counsel. We asked counsel whether he argued that no reasonable man could conclude that appellees intended to convey the idea that their contest was exclusively a puzzle contest. He replied: "Of course we must concede that a reasonable man might draw that conclusion, but we contend that the reasonable man would not draw it.

135 In United States Court of Appeals for the
District of Columbia

No. 9268. October Term, 1946

**ROBERT E. HANNEGAN, INDIVIDUALLY AND AS POSTMASTER GENERAL
OF THE UNITED STATES, APPELLANT**

vs.

READ MAGAZINE, INC., ET AL., APPELLEES

Appeal from the District Court of the United States for the
District of Columbia

Before EDGERTON, WILBUR K. MILLER, AND PRETTYMAN, J.J.

Judgment

Filed Dec. 9, 1946

This cause came on to be heard on the transcript of the record
from the District Court of the United States for the District of
Columbia, and was argued by counsel.

On consideration whereof, It is now here ordered and adjudged
by this Court that the judgment of the said District Court appealed
from in this cause be, and the same is hereby, affirmed.

Per Mr. Justice PRETTYMAN.

Dated December 9, 1946.

Dissenting opinion by Mr. Justice EDGERTON.

Excerpts from testimony.

TRANSCRIPT OF TESTIMONY OF POST OFFICE INSPECTOR FRANCIS D. BOYLE BEFORE THE SOLICITOR FOR THE POST OFFICE DEPARTMENT

Whereupon FRANCIS D. BOYLE, called as a witness for and in behalf of the Post Office Department and, having been previously duly sworn, was examined and testified as follows:

Direct examination by Mr. MINDEL:

Q. Will you state your full name please, Mr. Boyle?

A. Francis D. Boyle; B-O-Y-L-E.

Q. And what is your occupation?

A. Post Office Inspector.

Q. How long have you been employed in that capacity?

A. Twenty-five years and one month.

Q. In the course of your official duties, Inspector, did you undertake an investigation of the plan being conducted by the respondents in this case known as the "Hall of Fame" puzzle contest?

A. I did.

Q. During your investigation, did you observe advertisements appearing in the newspapers or elsewhere relating to this contest?

A. I did.

Q. Did you observe advertisements appearing in the Sunday News and in the Newsday and in Facts Magazine itself?

A. I did.

Q. I hand you Exhibits 1, 1-A, and 1-B and ask you if these are the mediums which I have just referred to.

A. They are.

Mr. BURKE. No objection.

139 By Mr. MINDEL:

Q. Inspector Boyle, did you also obtain a set of the puzzles which were being distributed in connection with this contest?

A. I did.

Q. And is this Exhibit 1-C representative of those puzzles?

A. It is.

Mr. MINDEL. Yes, sir. At this point I offer in evidence Exhibits 1, 1-A, 1-B, and 1-C, which have been identified by the Inspector. 1 and 1-B are advertisements from two newspapers.

1-A is a copy of Facts Magazine, issue of April, 1945. 1-C is a booklet issued by the operators of this contest containing the eighty puzzles which are said to comprise the puzzles to be solved as well as the rules.

Q. Mr. Boyle, did your investigation disclose who the operators of this contest are?

A. It did.

Q. And who are they?

A. The Publishers Service Co., its officers, and the subsidiaries or affiliates of the Publishers Service Co.

Q. And they are located where, Mr. Boyle?

A. On West Street, New York City; I believe it is 75 West Street.

Q. And can you tell us who the officers of the Publishers Service Co., Inc., are?

A. Mr. Sarazen is Executive Vice President.

Q. Do you know his full name?

A. Mr. Paul Sarazen. Miss Esther Fertel is the treasurer. A gentleman named Meyer is another officer; and a gentleman named Smith is another officer, president and secretary I believe.

Q. Mr. Smith is president you say?

A. Yes.

Q. What is the general nature of the business conducted by this firm?

A. They operate contests for themselves and for newspapers, publications, and other customers.

140 Q. And what is the relationship, do you know, Mr. Boyle, between the Publishers Service Co., Inc. and Facts Magazine?

A. Facts Magazine is a division of Read Magazine, and Read Magazine is a subsidiary or affiliate of Publishers Service Co.

Q. And what do you know as to the relationship between Publishers Service Co. and the Literary Classics Book Club of the Literary Classics, Inc.?

A. Literary Classics, Inc., is another affiliate or subsidiary of Publishers Service Co.

Q. Do you know whether the officers of those subsidiaries just mentioned are the same or approximately the same as those of the parent company, the Publishers Service Co.?

A. Approximately the same.

Q. Is Mr. Sarazen an officer of the Facts Magazine and of Literary Classics?

A. He is.

Q. Are you aware, Mr. Boyle, of any other contests conducted in recent years of a similar nature by this concern?

A. I am.

Q. Did you make an investigation of any of those other contests?

A. I made an investigation of the "All-American" contest, and a smaller investigation of the "Read" contest. I know of an investigation of the "Music Appreciation" contest.

Q. When was the "All-American" contest held?

A. '42-'43.

Q. Did your investigation cover the complete operation of the contest?

A. It did.

Q. At that time was Mr. Sarazen associated with the concern operating the contest?

A. He was.

Q. Did you speak with Mr. Sarazen at the time you were conducting your investigation of the "All-American"?

A. I did.

Q. Did he turn over to you, Mr. Boyle, any parts of advertisements or literature used in the conduct of that plan?

A. He did.

141 Q. What did those papers consist of generally?

A. Advertisements, circulars, circular letters, and parts of circular letters.

Q. I hand you now a file of papers and ask you if those are the ones you were just talking of?

A. These are.

Q. Mr. Boyle, did you interview Mr. Sarazen in connection with the "Hall of Fame" contest?

A. I did.

Q. Did you learn at that time whether Mr. Sarazen has charge of the conduct of this contest, the "Hall of Fame"?

A. Will you kindly repeat your question?

Q. Did you learn whether Mr. Sarazen has charge of the general conduct of the "Hall of Fame" contest?

A. I did.

Q. And you say that he does have charge of it?

A. He does have charge of it.

Q. And you have already testified that he had charge of the conduct of the "All-American" contest; is that correct?

A. That is correct.

Q. Did Mr. Sarazen indicate to you that the present contest was to be conducted in the same manner as the "All-American" contest?

A. He said there was a difference between the "Hall of Fame" contest and the "All-American" contest.

Q. Were they vital differences or were the contests essentially the same?

A. The contests were essentially the same but there were differences.

Q. Will you state what the differences were to be?

A. The spelling rules were much more strict. All judging was to be done by the Ruben Donnelley Corporation under contract.

They were to receive the solutions to the puzzles as soon as the money sent with them had been checked, and would retain the solutions until the rewards were made. The notice of the double-prize feature would be sent to qualified contestants early in the tie-breaker contest instead of after the puzzles and essays in the final tie-breaker contest had been received.

142 ASSISTANT SOLICITOR. I ask to clarify the record: The so-called differences just enumerated by the Inspector, are they features of the present "Hall of Fame" contest which were not contained in the "All-American" contest?

Mr. MINDEL. Well, if I may speak, the first feature mentioned, as I understand it, was the matter of handling the contest entries and the enforcement of the rule as to spelling, is that correct, Inspector?

The WITNESS. That's right.

ASSISTANT SOLICITOR. Well now, in which contest—the former or the present one—was the rule concerning spelling more strict? That isn't clear.

Mr. MINDEL. It is to be more strict, according to the Inspector's testimony, in the present case. Have you finished testifying as to what the differences are?

The WITNESS. No; there are still two differences. There was to be a consolation contest in which those persons who sent in wrong answers to the first phase of the "Hall of Fame" contest would take part. The puzzles in this group would be identical with those in the "Hall of Fame" contest.

By Mr. MINDEL:

Q. You mean identical in their general character, isn't that what you mean?

A. That's correct.

Q. Aside from those differences which you have noted the contests will be conducted in the same manner?

A. Yes.

Mr. MINDEL. At this time, Mr. Solicitor, I make an offer as Exhibit 2-A and subsequent letters under Exhibit 2 of the various papers and letters which the Inspector has identified as having been a part of the "All-American" contest.

ASSISTANT SOLICITOR. Submit them to the counsel for the respondent.

Mr. MINDEL. Do you want to see them again?

Mr. BURKE. Yes, please.

143

By Mr. MINDEL:

Q. Inspector, when you spoke with Mr. Sarazen relative to the "Hall of Fame" contest, which is of course the current contest, did he offer you any samples of the literature being used in connection with this contest?

A. He did.

Q. I hand you papers which I have marked "Exhibit 3 through 9," and ask you if these are the ones which were handed to you by Mr. Sarazen.

A. They were given me by Mr. Sarazen.

Mr. MINDEL. I offer in evidence these papers which have been marked "Exhibits 3 through 9."

Mr. BURKE. No objection.

By Mr. MINDEL:

Q. In your examination, Inspector, of the two contests, did you note any difference generally speaking as to the puzzles offered in each? Were they both offered in the same manner to the contestant?

A. They were both rebus puzzles. There were 120 to a set in the first contest and 80 to a set in the second contest. The ones in the "Hall of Fame" contest differed from those in the "All-American" contest in that there was a small legend over each puzzle in the "Hall of Fame" rebus which did not appear in the "All-American" puzzles.

Q. And what did the legend refer to; relate to?

A. It was descriptive of the puzzle.

Q. The subject of the puzzle, is that what you mean?

A. Descriptive of it.

Q. Did your investigation of the "All-American" disclose, or rather, did it show that that contest terminated with the completion of the first series of puzzles?

A. It did not show that.

Q. And there was then offered, was there not, as the exhibits indicate a tie-breaking series of puzzles in the "All-American"?

A. There was.

Q. And were the prizes awarded upon the completion of that series of puzzles?

A. They were not.

144 Q. Did it then go to a second tie-breaker series of puzzles?

A. It did.

Q. And with that series of tie-breakers, second series of tie-breakers, wasn't it required that an essay of some kind be submitted?

A. It was.

Q. Can you testify whether the prizes in the "All-American" contest were awarded on the basis of the accuracy of the second tie-breaker solution submitted?

A. They were not.

Q. Can you tell us then upon what basis they were awarded?

A. They were offered on the excellency of the essays.

Q. While investigating the "All-American" contest, Mr. Boyle, you say you spoke with Mr. Sarazen. I imagine more than once?

A. Several times.

Q. Did he at any time advise you as to the number of entries that were received in the several stages of that contest?

A. He did.

Q. Did he tell you how many entries were submitted in the first series of the puzzles?

A. 352,000.

Q. And how many of those did he advise you were in complete form so that they were submitted to the judges?

A. 132,000.

Q. And how many participated in the first tie-breaker series?

A. Approximately 95,000.

Q. Would that indicate that approximately 95,000 submitted correct solutions in the first series of puzzles?

A. No. Because there were a number who submitted correct solutions to the first series of puzzles who did not engage in the tie-breaker.

Q. Well, we can say at least 95,000; is that correct?

A. That is correct.

Q. How many, Mr. Boyle, participated in the second-tie-breaker series and submitted essays?

A. 77,000.

145 Q. Do you know how many submitted correct solutions to the second tie-breaker and therefore had their essays judged?

A. 55,000.

Q. Have you made a computation that would show what percentage that 55,000 is of the 132,000 whose first series of puzzles were submitted to the judges for judging?

A. I have.

Q. Will you state what it is?

A. Approximately 41 percent.

Q. 41 percent of those who completed the first series went through to the point where their essays were judged?

A. Yes.

Q. Did Mr. Sarazen in connection with the present contest make any statement to you as to whether or not it would proceed through the stages as in the "All-American" and that the essays would be the determining factor of the winners?

A. He told me that essays would be required.

Q. What, Mr. Boyle was this consolation contest that you referred to? What was that supposed to be?

A. If a person failed in the initial puzzle contest, they were given a chance to solve additional puzzles for a fee of three dollars and there would be prizes offered for their further participation in a separate contest from the original contest.

Q. Did Mr. Sarazen make any statement as to the fees to be paid in connection with the consolation contest as well as with the tie-breaking puzzles?

A. They were to be the same.

Q. The same as what? You mean to say the same as the first original series of puzzles?

A. Precisely.

Q. A total of three dollars?

A. That's right.

Q. In the "All-American" contest was a similar scale of fees paid by the contestant?

A. There was.

Q. And you also made previously a reference to a double-prize feature. Will you tell us just what that is supposed to be?

A. At the time when the solutions for a second tie-breaker in the "All American" contest had been submitted contestants 146 received notice that if they would pay \$7.50 they would be entitled to receive double the amount of any price they might win.

Q. Did Mr. Sarazen say that that feature would be a part of the current contest?

A. He did, but that it would be placed into effect at a different time during the contest.

Q. As a matter of fact, have you seen literature of the contest operators in connection with the double-prize feature of the current contest?

A. I have.

Q. Does this file which I hand you, Inspector, contain the offer of the double-prize feature just referred to?

A. It does.

Q. Will you state what that file of papers is that I have handed you, and which you have just examined?

A. This is the file of papers submitted by Adele M. Beckman of St. Louis, Missouri, which I have received through official channels.

Mr. MINDEL. I may state, Mr. Solicitor, that the letter of transmittal from Mrs. or Miss Beckman attached to the file is not offered as part of the evidence but merely to show its source.

Mr. BURKE. We concede its source so you needn't offer the letter unless you wish. I have read it. We concede its source as the Inspector testified. [Counsel examines entire file.]

No objection.

Mr. MINDEL. I offer as Exhibit 10 and sub-exhibit numbers this file just referred to as having been received from Adele M. Beckman, St. Louis, Missouri.

And I now ask the Inspector to identify this file as correspondence with the company and which will be marked "Exhibit 11-A" and sub-exhibit number and is conducted with Mr. Martin Wahl. Is that one of the files, Inspector, that also came into your possession in the conduct of your—investigation?

The WITNESS. Yes; it came through official channels.

Mr. BURKE. No objection.

147

By Mr. MINDEL:

Q. Inspector, did there also come to your attention correspondence of the operators of this contest with those that were brought into the consolation contest?

A. There was.

Q. I hand you now a file of correspondence between Judith S. Johnson and a Mrs. A. D. Mott, of Graybulle, Wyoming, and ask you to identify that.

A. I identify this as having been received through official channels.

By Mr. MINDEL:

Q. Inspector, in your investigation did you learn who judges the solutions to the puzzles submitted in this contest?

A. Ruben H. Donnelley Corporation.

Q. Ruben H. Donnelley Corporation?

A. That is correct.

Q. Located at New York?

A. In New York City.

Q. Is that a regular part of their business?

A. That is the function of one of their departments.

Q. Did you interview the Donnelley people concerning this contest?

A. I did. I talked to Mr. Morse.

Q. Do you know Mr. Morse's full name?

A. I don't recall his full name, no.

Q. What is his office there? What is his capacity?

A. He was in charge of the Contest Section.

Q. And as such he has charge of this particular contest?

A. Yes.

Q. That is, insofar as the Donnelley company handles it. Could you learn from Mr. Morse how many entries had been turned over to him for judging in the first series of the "Hall of Fame" contest?

A. At that time 85,000 approximately.

Q. 85,000 had submitted complete solutions, am I correct, and therefore they had been turned over to Donnelley for judging as to accuracy, is that correct?

A. That is correct.

148 Q. Did he indicate that that would be all that would be received?

A. No; he expected that there would possibly be 5,000 more.

Q. Making a total of 90,000 entrants who would have their puzzles judged for accuracy; is that correct?

A. Approximately; that is correct.

Q. Were these entries which Donnelley company received first handled by the Publishers Service Co.?

A. They were checked as to financial reasons first. For instance, the money was all paid in and then they would be turned over to the Donnelley company for judging.

Q. And I assume also, am I correct, that the Publishers Service Co. by that initial treatment would also eliminate those who did not complete all 80 puzzles. Is that correct? In other words, persons who might have sent in less than 80 solutions?

A. I do not know whether they were eliminated by Publishers Service Co. or by Donnelley.

Q. Mr. Boyle, upon the basis of your investigation of the operation of "All-American" and the figure of 90,000 which you have just given as the number of entries to be judged in the first series, can you make any estimate as to the number which in this contest will have their letters judged?

A. Well, if it was a direct parallel with "All-American" contest, 41 percent of the 90,000 would have their letters judged?

Q. Well, I get that—just for the record—a figure of 36,900.

A. I believe that is correct.

Q. Did your investigation of the "All-American" disclose how much money was realized by the operators in the operation of the contest?

A. Approximately a million and a half was taken in.

Q. Approximately \$1,500,000 was taken in from the contestants in the "All-American" contest?

A. Yes, sir.

Q. And can you testify as to how much was paid out in prize money?

A. About \$30,000. May I change that? It must have been \$40,000 because the first prize was doubled in one instance, and as there were two first prizes given it would naturally go beyond \$30,000 and would therefore approximate \$40,000.

149. Q. In talking with Mr. Sarazen about the current "Hall of Fame" contest did he indicate to you how extensively it was to be advertised?

A. I believe the expression "nation-wide" was used.

Q. "Nation-wide." Did he indicate that it was to be to an extent comparable to that in the "All-American"?

A. He didn't say.

Q. Do you know what the extent of the advertising was in the "All-American"?

A. Nation-wide.

Q. Did Mr. Sarazen at any time indicate to you that he anticipated that the current contest would stop with the judging of the first 80 puzzles?

A. He did not.

Q. Did he indicate that he expected it would not stop with the judging of the first 80 puzzles?

A. Yes, because we discussed the matter of essays.

Q. Did Mr. Sarazen indicate how many entrants he expected in the consolation contest?

A. He did not. He merely pointed out that if he received a certain number, it would be sufficient to pay for the prizes offered.

A. I believe 6,000.

Q. Do you recall what that number was?

Q. When interviewing Mr. Morse of the Donnelley outfit did you learn from him whether arrangements had already been made for the judging of the letters or essays in the current contest?

A. Yes, that was discussed by us.

Q. And you testified that he said that such arrangements had been made at that time?

A. Yes.

Q. And approximately when was that interview held? Let me ask you this way: Was that at the outset of the conduct of this contest?

Q. No. The contest had been in effect for some time and the interview was held on June 22.

Q. And the closing date for the first series of puzzles was June 16; is that correct?

150 **A.** Yes.

Q. Well, the record will show that. Have you any information, Mr. Boyle, as to the size of mailings being made by the Publishers Service Co. or the Facts Magazine relative to this contest?

A. Yes; I have.

Q. Will you state what that is?

A. On July 3rd at Grand Central Annex there were 7,888 registered letters mailed; the same day at Church Street Annex there were 44,584 registered letters mailed. On July 5th there were 34,994 registered letters mailed; July 6th, 583; July 10th, 1,338; July 11th, 176; July 14th, 46, a total for that period of 89,609 registered letters mailed. The following registered letters were delivered to Facts Magazine by Church Street Annex on July 5th, 24; July 6th, 7; July 9th, 227; July 10th, 337; July 11th, 197; July 12th, 1,148; July 13th, 2,153; July 14th, 1,761; July 16th, 3,264; July 17th, 795; July 19th, 670, a total of 11,483 registered letters delivered to the Facts Magazine.

Q. Over what period of time?

A. July 5th to July 19th.

Q. Do you have any figure as to the amount of regular ordinary mail being received aside from registered?

A. On July 19, 1945, approximately 20,000 pieces of first-class mail were delivered.

Q. When you interviewed Mr. Sarazen in connection with this contest, "Hall of Fame," how much of the literature to be used in the contest had been prepared?

A. Only that pertaining to the first phase.

Q. All of which you have identified and has been entered here in evidence, is that correct?

A. Yes, sir.

Q. In your investigation of the "All-American," Mr. Boyle, did you examine the final prize-winning entries?

A. I did.

Q. What percentage did you find of those entries had paid the extra fees entitling them to a double prize?

A. Four-sevenths is the proportion.

Q. Four-sevenths. Would 65 percent be about that?

A. About 44,000 out of 77,000 had paid the double-prize fee.

151 **Mr. MINDEL.** No further questions.

Cross-examination by Mr. BURKE:

Q. Mr. Boyle, the puzzles in the "Hall of Fame" contest are different from the puzzles in the "All-American" contest, are they not?

A. They are the same type but they are different puzzles.

Q. By the same type you mean that they are rebus puzzles?

A. Yes.

Q. And a rebus puzzle is one which pictures an object and requires identification of that object, isn't that right?

A. That is right.

Q. But the puzzles that constituted the "Hall of Fame" contest are puzzles depicting different objects than those depicted in the puzzles used in the "All-American" contest, isn't that right?

A. As far as I know; yes.

Q. You examined the puzzles used in the "All-American" contest!

A. Yes.

Q. And you have examined the puzzles used in the "Hall of Fame" contest to date?

A. Yes.

Q. So that the contests differ in that the puzzles are different?

A. Yes.

Mr. MINDEL. I object to the conclusion called for by the question as do the contests differ. They differ, I believe, in more respects than that.

Mr. BURKE. Well, they differ at least in that respect, do they not, Mr. Boyle?

The WITNESS. That is one difference.

By Mr. BURKE:

Q. Mr. Boyle, you gave a percentage of the persons who entered the All-American Contest who were required to submit letters for judgment, did you not? What percentage was that?

A. I believe it was around 41%.

152 Q. Have you examined the puzzles thus far in the Hall of Fame Contest?

A. I have.

Q. Have you—

A. (Interposing.) That is the first and second series.

Q. Have you made any estimates of the number of contestants who will probably have to submit letters?

A. Only from the percentages prevailing in the All American Contest.

Q. Those percentages would be thrown off if the puzzles became progressively more difficult, would they not?

A. I believe they would.

Q. Rebus puzzles are capable of being made difficult, are they not?

A. I don't know enough about them to be able to say that. I imagine they could be though.

Q. How long did you investigate the All American Contest?

A. A little over a year.

Q. During that time you saw the puzzles and their solutions?

A. I did.

Q. Did you attempt to solve some of them yourself?

A. I did.

Q. Did you succeed?

A. I did.

Q. From your experience in solving those puzzles do you think you could solve any rebus puzzle?

A. No.

By Mr. BURKE:

Q. Did you make certain criticisms of that contest to Mr. Sarazen?

A. No.

Q. Did you discuss the matter of the timing of the so-called double-prize offer with him?

A. I was present when it was discussed.

Q. Mr. Boyle, the rules of the "Hall of Fame" contest promise that the sponsors will offer a group of eighty puzzles for solution. Is that so?

153 A. Yes.

Q. Did the sponsor offer a group of eighty puzzles for solution?

A. Yes.

Q. And in exchange for the remittances made with the solutions to the eighty puzzles, did the sponsor promise the contestant a book, published by the Literary Classics Book Club?

A. I do not recall the wording of that offer.

Q. I refer you to Rule 8, appearing in Exhibit 1, is it?

Mr. MINDEL. 1-A, at least. Page 52.

Mr. BURKE. Thank you, which reads as follows:

"Each contestant who submits a complete group of solutions for this contest qualified in accordance with the Rules will receive the book selected for the month of July by the Literary Classics Book Club."

Is that a part of the rules of this contest?

Mr. MINDEL. Well, your question has answered itself, Mr. Burke.

By Mr. BURKE:

Q. Do you recall that to be a part of the rules of this contest?

A. Yes.

Q. Then did the sponsor in accordance with his promise deliver to each of such contestants the book published for July by the Literary Classics Book Club?

The WITNESS. I know of one person who received a book.

By Mr. BURKE:

Q. Have you seen that book?

A. I have not.

Q. Have you seen any of the books?

A. I have not.

Q. Did Mrs. Beckman inform you whether or not she had received her copy of the book?

A. I don't recall.

Q. I show you a book and ask you if that is the book which was sent to the contestants so qualified?

A. The title is the same.

Mr. BURKE. May it be marked for identification?

ASSISTANT SOLICITOR. Yes.

Mr. BURKE. I mark it myself, I take it.

ASSISTANT SOLICITOR. Mark it Respondent's Exhibit No. 1 for Identification.

(Book entitled "The Way of All Flesh" was marked "Respondent's Exhibit No. 1" for Identification.)

By Mr. BURKE:

Q. Didn't you attempt in your investigation, inspector, to find out whether the sponsor in fulfillment of its promise had sent the promised book to the contestants?

A. I did not.

Q. Did you think that immaterial?

Mr. MINDEL. Objection, as to what he thought.

ASSISTANT SOLICITOR. I don't think that is competent, Mr. Burke. After all the inspector is a gatherer of facts. The opinions are reached after the facts are submitted to the Solicitor's Office.

Mr. BURKE. May I have an exception?

ASSISTANT SOLICITOR. Yes; let the record show your exception.

By Mr. BURKE:

Q. Mr. Boyle, the rules of the contest promise that in the event of ties, a second tie-breaking group of puzzles divided into series

exactly like the first group would be submitted for solution by the contestants. Do you know whether or not the sponsor in fulfillment of that promise so submitted that group of puzzles?

A. I do know.

Q. It did?

A. Yes.

Mr. MINDEL. Just one moment, there's a little confusion. You were speaking of the second tie-breaking puzzle.

Mr. BURKE. No; the first tie-breaker.

By Mr. BURKE:

Q. And in the "All-American" contest the sponsor promised the contestant that in case of a second tie-breaking group of puzzles being necessary, contestants eligible to solve the same would be required to accompany their solutions to the second tie-breaking group of puzzles with a letter of not more than two hundred words on the subject "My Choice for American Hero No. 1." Do you know whether or not the sponsor accepted and judged those submissions of letters on that subject?

A. Yes.

Q. And you know that the winner of the prize was determined on the basis of the excellence of that letter?

A. So far as I know.

Q. In the "Hall of Fame" contest, do you know that Rule 9 provides that in case a second tie-breaking group of puzzles is necessary contestants eligible to solve same will be required to accompany their solutions to this second tie-breaking group of puzzles with a letter of not more than two hundred words on the subject "The Puzzle I Found Most Interesting and Educational in This Contest"?

A. There is a rule.

Q. The rules of the contest provide that any contestant who becomes eligible to submit and who does submit a group of qualified tie-breaking solutions will receive the following month's Book Club selections. Do you know whether or not the entrants in the first tie-breaker who submitted complete solutions to that group of eighty puzzles received from the sponsor the promised book?

A. I don't know.

Q. You didn't investigate that?

A. No.

Q. Did anyone complain to you that he had not received the promised books?

Mr. MINDEL. Objection. Immaterial to the issues.

ASSISTANT SOLICITOR. I overrule your objection, Mr. Mindel.

The WITNESS. I have received no such complaint.

Mr. BURKE. Then, as far as you know, the sponsor fulfilled his promise by delivering the promised books?

The WITNESS. As far as I know.

Mr. BURKE. The sponsor promised in the "All-American" contest a—

Mr. O'BRIEN (interposing). Mr. Solicitor, I hate to interrupt you but I want to move to strike the last question and answer.

It seems to me that that is a meaningless piece of 154 question and answer if it is interpreted in the normal way but it might be misinterpreted. He didn't ask the inspector whether he knows what the sponsor did. So far as he knows he doesn't know what he did. To me, Mr. Solicitor, that is very obscure, objectionable and incompetent question and answer. It has no relevancy to anything except that it might be misinterpreted an indication that the inspector said or intended to indicate that the sponsor did deliver the books. The inspector doesn't know one way or the other.

ASSISTANT SOLICITOR. Your objection is, then, to the form of the question?

Mr. O'BRIEN. Form of the question and the irrelevancy of the inspector's not knowing.

ASSISTANT SOLICITOR. I think the inspector can answer that question if he knows but what you seek to do is to clarify whether he knows or not. Let him answer whether he knows that fact and I think that will clarify without striking it from the record. Do you know whether the book was furnished, Mr. Inspector?

The WITNESS. I do not know.

ASSISTANT SOLICITOR. Whether it was or was not—

The WITNESS (interposing). I know nothing about it.

By Mr. BURKE:

Q. No one complained to you, however, that he had not received the promised book?

A. I have no such complaint.

Q. And you were in contact with people who were participating in the contest, were you not?

A. I don't understand the question about being in contact with them.

Q. Did you have any communication with anyone who was a participant in the contest?

A. I received complaints from them.

Q. So that you were in contact through the receipt of complaints from them?

A. Yes.

155 Q. But the complaints didn't state that they had not received the promised book?

A. I had no complaints on that score as far as the second book was concerned.

Q. As far as the first book was concerned, did you have any such complaints?

A. I knew that one of the books, at least, had been delivered, the first book.

Q. That is, "The Way of All Flesh?"

A. That was the title of the book which had been delivered.

Q. Do you know of any promise made by the sponsor to the contestants which had not been fulfilled?

A. No.

Mr. BURKE. That is all.

Redirect examination by Mr. MINDEL:

Q. Do you know, Inspector, that all of the promises made by the promoters have been fulfilled to the contestants? Do you know, that is, yes or no, whether or not all of the promises made by the promoters have been fulfilled?

A. No.

Q. Aside, Inspector, from the language contained in rules 8 and 9, did you find in your examination of the exhibits in the "Hall of Fame" contest any statement that the contestants would have to pay additional fees should the contest go beyond the first 80 puzzles?

Mr. BURKE. I object upon the ground that the rules speak for themselves. They are in evidence.

Mr. MINDEL. I am asking him if he found anything beyond the rules, in addition to the rules, in examining the exhibits.

Mr. BURKE. And I am objecting. The exhibits speak for themselves.

ASSISTANT SOLICITOR. That is my opinion, too, Mr. Mindel, that they do speak for themselves. If it is not there you can call attention to that fact. If counsel for the respondent thinks it is there he can point it out.

Mr. MINDEL. No further questions.

157. The following excerpts are from the testimony of Paul Sarazen at the hearing before the Solicitor of the Post Office Department (transcript of Proceedings, pp. 136, 148-150):

Q. Mr. Sarazen, were there any rebus puzzle contests of the same general nature as the "Hall of Fame" contest in which the prize was awarded upon the basis of the judgment of puzzles only as distinguished from the judgment of letters?

A. Yes.

Q. How many?

A. Well, I can name two or three; if I can refer to the records, I can name more!

Q. How many were there? I didn't ask you to name them, Mr. Sarazen.

A. There must have been a dozen.

Q. Can you name some of them?

A. I would say the Boston Herald Travelers contest is one; the Hearst paper in Boston is another one; the Dallas News is another one; the Detroit Times is another one.

Q. In each of those contests did the rules provide for the resolution of final ties by an essay?

A. Yes.

Q. In your testimony you stated that in a number of contests which the Publishers Service Co. conducted for different newspapers the awards were given without consideration of the letters.

Do you recall that testimony?

158 A. I do.

Q. Now, will you tell us during what period of time those contests were conducted?

A. Between 1928 and 1941, I would say.

Q. And you say that all of them were rebus contests the same as in this one?

A. I did not.

Q. You do not say that?

A. I do not.

Q. Well, do you say that they were not rebus contests, those particular ones?

A. I do not.

Q. In other words, some might have been and some might not have been.

A. That is right.

Q. Thank you. Since 1941 have any contests conducted by you been decided without consideration of the letter or essay?

A. Since the end or the beginning of 1941?

Q. Since 1941, since the end of the year.

A. No.

Q. And in the "All-American" contest were the prizes there awarded without consideration of the essay?

A. They were not.

Q. They were awarded then, would you say, upon the basis of the essay?

A. On the basis of the best essay; yes.

Q. And that contest, will you say, was similar to the present contest?

159 A. I said and say now that it was similar in pattern to the present contest.

THE ALL-AMERICAN PUZZLE CONTEST

WIN \$10,000 001 1st PRIZE

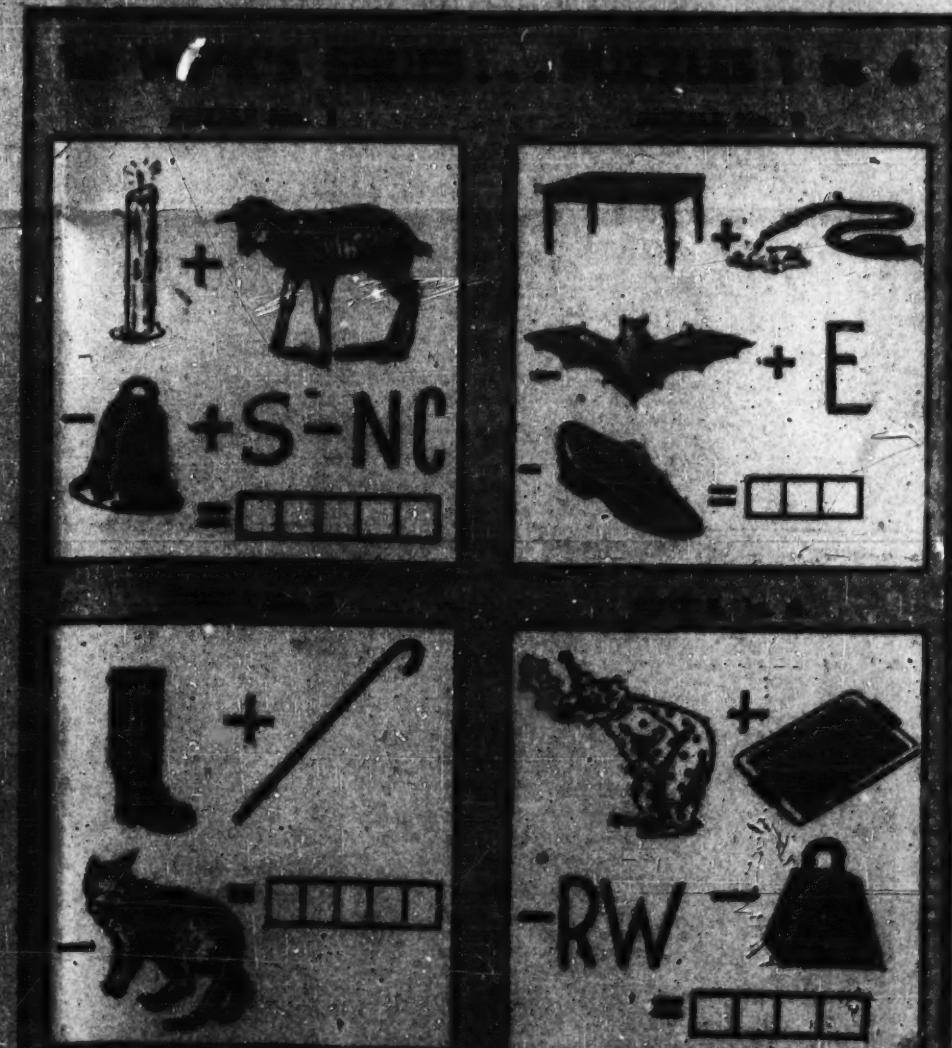
ATTENDING CONTEST TO DESIGN THE
CONTEST FANS OF COLUMBIA

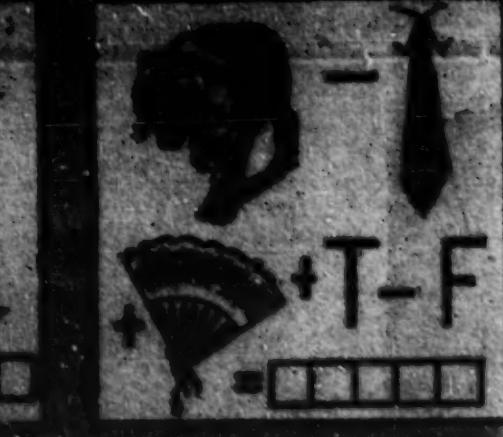
(CAN YOU SOLVE THESE SIX PUZZLES?)

Conducted by America's
Distinguished Newspaper Service

ENTER TODAY! Mail York, Columbia,
Contest Form in Letter Box Corner

HOW TO SOLVE
THE PUZZLES





1st Prize; \$2,000 2nd Prize; \$1,000 3rd Prize
Grand Total Prize Fund \$15,000.00

Within the last few years, the best
and most popular of the new
books on the market have been
written by the author of this book.
The author has written a book
which is a valuable addition to
the library of any person who
wishes to learn more about
the history of the United States.
The author has written a book
which is a valuable addition to
the library of any person who
wishes to learn more about
the history of the United States.

Now if you can solve the puzzle above, but don't care to read the explanation in the center of this page under the heading "How to Solve the Puzzles," then find the "great American secret code puzzle" (page 11).

All Entry Form Printed Below
Not Later Than Mid-night, Thurs., Aug. 20th

MAIL IN YOUR SOLUTIONS CAREFULLY
ON THIS OFFICIAL ENTRY FORM

**Fill in your solutions carefully
on this official entry form.**



START TODAY! YOU CAN WIN \$10,000

IT
STARTS
TODAY!

The ALL-AM PUZZLE

\$15,000.00

Can You Solve These?

\$15,000.00
in PRIZES

1st Prize \$10,000.00
2nd Prize . . . \$2,000.00
3rd Prize . . . \$1,000.00
4th Prize \$500.00
5th Prize \$250.00

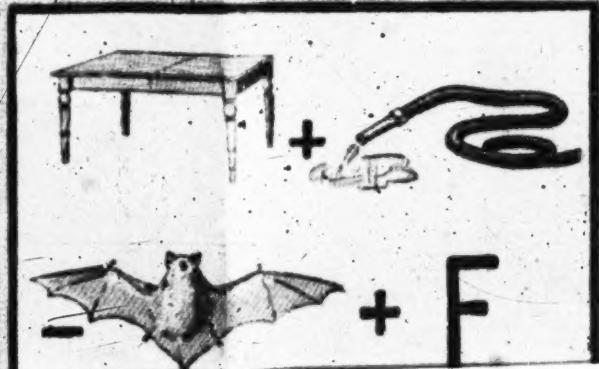
FIRST WEEK'S SERIES — PUZZLES No. 1-6

The six puzzles printed below comprise the first week's series of puzzles in this contest. Each puzzle represents a great American name. In each case the solution of the puzzle is the LAST NAME of a distinguished American. Before trying to solve these puzzles, study carefully the explanation provided on the page at right.

PUZZLE No. 1



PUZZLE No. 2



\$10,000.00 FIRST PRIZE! START TODAY!

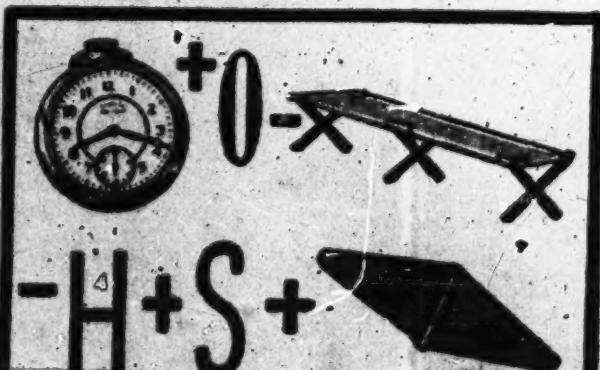
AMERICAN

CONTEST

in Prizes

YOU CAN WIN \$10,000⁰⁰
1st PRIZE in this contest

How to Solve the Puzzles
(SAMPLE PUZZLE)



**Start Today! Solve the 6 Puzzles Printed on
the Page at the Left. Win \$10,000.00 1st Prize!**

TODAY, you are invited to enter a new, delightful contest, — THE ALL-AMERICAN PUZZLE CONTEST. You can enter TODAY by using either of two Entry Forms provided on these pages. Mail your entry on or before midnight, Thursday of this week, August 20.

You can win a First Prize of \$10,000, or any of 99 other cash prizes. You win by solving the puzzles and submitting your answers in accordance with the rules.

Here is a contest of skill,—with puzzles based on names of famous American men and women, names of thrilling American locations, names you have loved since your earliest recollections, names, many of them, on the tip of your tongue. BUT,—can you find these names in the puzzles?

Each Week You Send In Answers in This Contest

guarded in this file from week-to week. At the conclusion of the contest, you can check your file against that of any winner.

In this announcement you will find two Entry Forms,—one in the lower left corner of the left page and another in the lower corner of the right page. Two forms are provided for the reason that more than one member of a family may wish to enter the contest. In this contest every member of the family is eligible to enter and to win. However, no person will be awarded more than one prize, the highest prize won by any entry submitted by that contestant.

**Enclose 15 Cents With Each Series
When Sending In Your Answers**

When sending in each weekly series of answers, enclose 15 cents in, in accordance with Rule No. 7. At the conclusion of the test, when winners are announced and prizes awarded, each



1st Prize \$100.00
 2nd Prize \$100.00
 3rd Prize \$100.00
 Next 99 Prizes, Each \$5 . . . \$495.00
 Total 100 Prizes \$15,000.00

More Than One Member of a Family Can Enter and Win

Enter This Contest and Win! The first member of the family with entries in the first two boxes at the top of this page can be used. The second two boxes are to be used by the second member of the family and so on. Any member of the family can enter and win.

**ENTER TODAY! WIN \$10,000.00!
 MAIL ENTRY FORM BELOW!**

Entries on this page will not be counted. Fill in the entries to Boxes 1-4 on the Entry Form below. Mail Entry Form before midnight, Thursday, August 20th.

OFFICIAL ENTRY FORM

NAME _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____

TELEPHONE NUMBER _____

NAME OF BUSINESS _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____

TELEPHONE NUMBER _____

NAME OF BUSINESS _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____

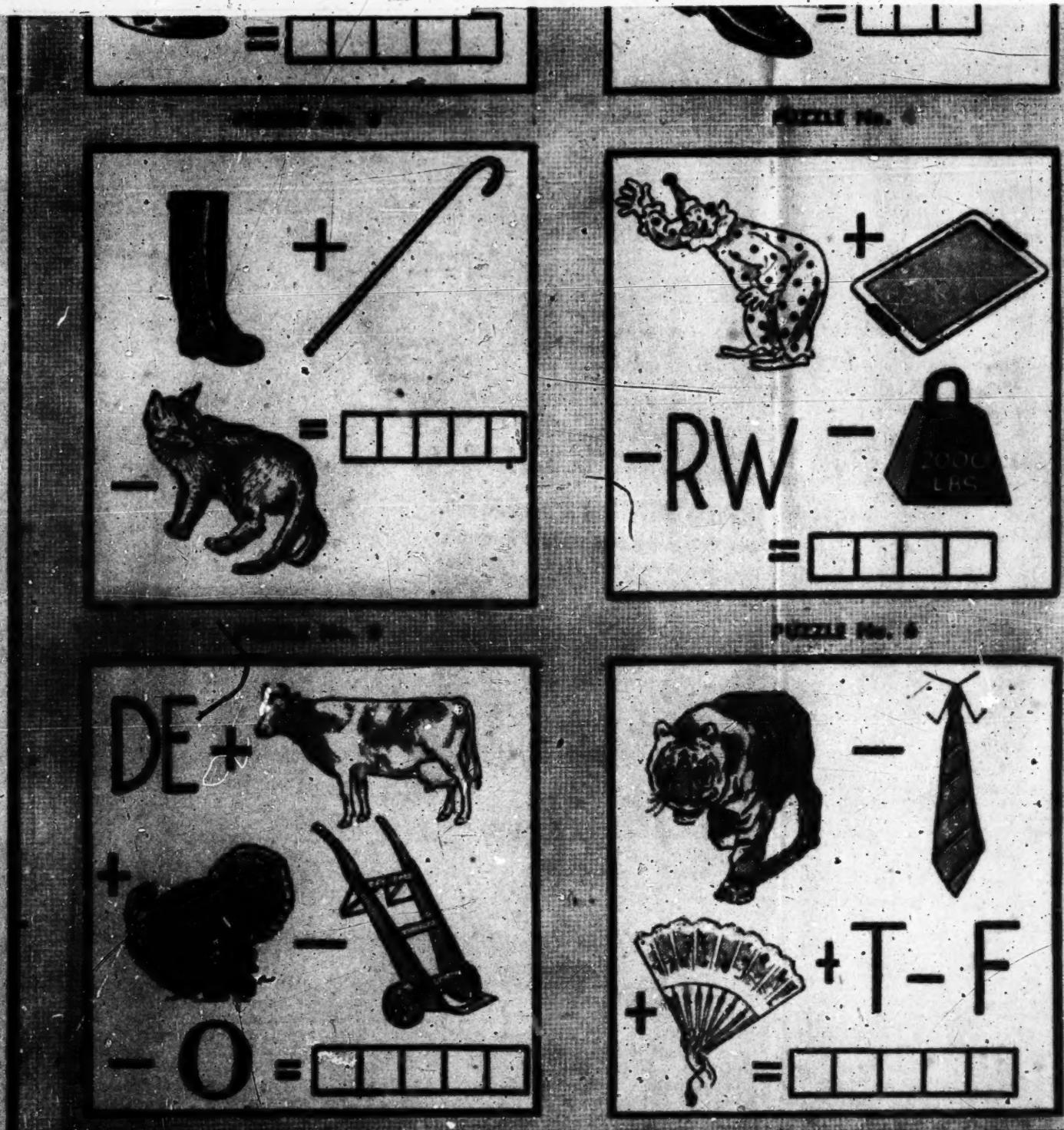
TELEPHONE NUMBER _____

NAME OF BUSINESS _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____

TELEPHONE NUMBER _____



USE EITHER ENTRY FORM — Send in Yo

Fill in the name and address on the Entry Form printed in the lower portion of this page. See that your name and address are written clearly. Postage must be mailed ON OR BEFORE MIDNIGHT, Thursday, August 20th.

Study the Sample Puzzles Before Trying to Solve the Real Ones

When you begin the six puzzles of the 1st Series, be sure to study the sample puzzles on this page. Look at every object. Look at every word. You may try to solve the first puzzle in a few minutes, but don't overlook every detail involved in the solving of the real puzzles.

Submit Solutions by Thursday Midnight Each Week

Mail your entries in this manner by Thursday at midnight of each week. After solving the puzzles, you will be mailed the Entry Form. This form, which you will receive from time to time, contains a space for your name and address, and you can submit your solutions on this form. Your own private file will be maintained for you, and your solutions will be carefully safe-

THE RULES—Please Read Them Carefully

1. **Entry Form.** Fill in the name and address on the Entry Form printed in the lower portion of this page. See that your name and address are written clearly. Postage must be mailed ON OR BEFORE MIDNIGHT, Thursday, August 20th.

2. **Prizes.** The grand prize is \$10,000.00. There will be six consolation prizes of \$100.00 each.

3. **Contest Dates.** The contest begins on August 13th, 1937, and continues for six weeks. The first series of puzzles will be published on August 13th, 1937, and the second series will be published on August 20th, 1937.

4. **Contestants.** Any person may enter the contest. There is no limit to the number of contestants.

5. **Contestant's Name.** The name of the contestant must be printed on the Entry Form.

6. **Contestant's Address.** The address of the contestant must be printed on the Entry Form.

7. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

8. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

9. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

10. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

11. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

12. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

13. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

14. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

15. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

16. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

17. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

18. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

19. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

20. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

21. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

22. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

23. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

24. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

25. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

26. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

27. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

28. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

29. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

30. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

31. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

32. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

33. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

34. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

35. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

36. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

37. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

38. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

39. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

40. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

41. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

42. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

43. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

44. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

45. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

46. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

47. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

48. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

49. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

50. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

51. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

52. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

53. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

54. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

55. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

56. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

57. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

58. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

59. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

60. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

61. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

62. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

63. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

64. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

65. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

66. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

67. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

68. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

69. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

70. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

71. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

72. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

73. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

74. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

75. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

76. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

77. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

78. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

79. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

80. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

81. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

82. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

83. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

84. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

85. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

86. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

87. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

88. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

89. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

90. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

91. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

92. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

93. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

94. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

95. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

96. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

97. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

98. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

99. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

100. **Contestant's Name and Address.** The name and address of the contestant must be printed on the Entry Form.

**AMERICA'S OUTSTANDING CONTEST
ORGANIZATION CONDUCTS THIS CONTEST**

This contest is being conducted in its entirety by one of America's foremost contest organizations,—the Publishers Service Company, the same company which has conducted the great majority of the large puzzle contests for many of the nation's leading newspapers and manufacturers. All of the puzzles used in the ALL-AMERICAN contest are new and original and have never before been presented.

Here is a contest of, by and for Americans . . . featuring the names of the men and women who have made America great and are making it ever greater.

Here is a contest in which the names of Great Americans have been ingeniously puzzle-ized . . . to intrigue and entertain you, and to bring you great prize-winning opportunities.

A contest packed with thrills . . . Not only the thrill that comes with solving clever puzzles, but the thrill of recognizing names that mean and have meant so much to America . . . the thrill that comes with the recollection of the great deeds of patriots, statesmen and pioneers.

As you proceed from puzzle to puzzle you will be filled with pride at the variety of illustrious names that flash before you. And you will find this contest not only a grand way to win big money, but a means of refreshing your memory of America's greatest heroes, and America's stirring episodes.

START NOW! WIN \$10,000.00 1st PRIZE!

Mail Your Entry By Midnight, Thursday Night

Double to enter this contest now. Here is a thrilling opportunity for those who relish a contest of skill. Solve the six puzzles on these two pages, and mail your entry by MIDNIGHT, THURSDAY, AUGUST 20th. You will find the 2nd series of puzzles in next week's issue. In addition, the moment we get your Entry, we will begin mailing you the various weekly series of puzzles. Address your envelope to: ALL-AMERICAN CONTEST, P. O. BOX 88, TRINITY STATION, NEW YORK, N. Y.

**MAIL THIS ENTRY FORM
ON OR BEFORE MIDNIGHT, THURSDAY, AUG. 20th**

OFFICIAL ENTRY FORM

ALL-AMERICAN CONTEST
P. O. Box 88, Trinity Station, New York, N. Y.

Date

I enclose the amount of my registration
fee for the All-American Contest.

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

I enclose \$1.00 to mail my entry for a
copy of the weekly series of puzzles.

7. _____
8. _____
9. _____
10. _____

Please mail this Entry Form by
Midnight of Thursday, August 20th.

Q. It involved a series of puzzles to start with, did it not, and then two tie-breaking series of puzzles?

A. And an essay; yes.

160 [Photostat.]

161 [Photostat.]

162 [Photostat.]

163 *Government's Exhibit 2-E.*

America's Distinguished Newspaper Service presents

THE ALL-AMERICAN PUZZLE CONTEST

First Prize \$10,000.00

Address All Communications to: Puzzle Contest Editor, All-American Contest, P. O. Box 88, Trinity Station, New York, N. Y.

From the Contest Editor:

To the Entrant.

DEAR FRIEND: We have received your solutions in our All-American Puzzle Contest. Immediately upon receiving same, we established your own private file in this contest, and throughout the contest, as we receive your solutions, we will place them in your file.

You will find enclosed with this letter a Bulletin which contains the 1st, 2nd, 3rd, 4th, 5th, and 6th Week's Series of Puzzles.

Now, with the enclosed Bulletin, you have the puzzles for the first 6 weeks. Solve these puzzles. Submit your answers in accordance with the rules. The additional puzzles will be mailed to you in due course so that you will have ample time to solve them and to submit your solutions in accordance with the dates specified in the rules.

In acknowledging your solutions, we wish to extend to you a cordial welcome in this contest. We would like for you to know that every detail is under the direction of the same newspaper contest organization that has conducted the important contests for most of the nation's largest newspapers. At all times you may be certain that your solutions will be carefully safeguarded.

You can win \$10,000 Cash First Prize in this contest, or any one of 99 other cash prizes. If you prefer, you can, of course, take any prize you win, in full or in part, in Defense Bonds. For instance, the \$10,000 Cash Prize would be equivalent to Defense Bonds worth more than \$13,000 at maturity.

We urge you to participate in this contest with enthusiasm and confidence. You can look forward to delightfully challenging puzzles created by expert puzzle-makers, and you may have absolute confidence that every contestant will receive the identical, fair impartial treatment.

As you probably know, it is permissible to send in more than one Series of solutions at a time if you wish to do so. In other words, if you wish to send several Series at a time, in the same envelope, the rules permit you to do so.

With every good wish for your success, consistent with fairness to all contestants, and looking forward to the receipt of your further solutions, we remain

Most sincerely yours,

THE ALL-AMERICAN CONTEST,
By M. A. MCKAY,

Contest Editor.

MAM:s.

164

Government's Exhibit 2-F

THE ALL-AMERICAN PUZZLE CONTEST

Under Direction of Publishers Service Company, Inc., 75 West Street, New York, N. Y.

Office of Contest Editor.

Address All Communications to Puzzle Contest Editor, All-American Contest, P. O. Box 88 Trinity Station, New York, N. Y.

JANUARY 5, 1943.

We take pleasure in advising you that the 120 solutions you submitted in the contest have been adjudged correct in their entirety. As a result you are tied for the largest prize that can be awarded in the contest, \$10,000.

In receiving congratulations you will be interested in knowing that more than one-half of those who started in the contest lost out or dropped out by the eighth week, and that more than 24,000 contestants from that point on lost out either by submitting one or more incorrect solutions or by dropping out of the contest entirely. The puzzles which proved most difficult were Nos. 17, 41, 60, 66, and 71, although practically all of the 120 puzzles were incorrectly named by many contestants during the course of the contest.

Ties will be broken and winners determined as fast as possible in accordance with the rules of the contest. You will receive a tie-breaking group of puzzles within the next few days. We call

OFFICIAL NOTICE:

You Are Tied for a Prize in the All-American Puzzle Contest

IMPORTANT:

Read the Following Instructions Carefully

REGULATIONS GOVERNING SUBMISSION OF SOLUTIONS TO THESE TIE-BREAKING PUZZLES

(1) As explained in the letter previously mailed to you under separate cover, this tie-breaking set of puzzles is sent to you for solution because you are tied for a prize.

(2) This is in accordance with Official Rules of the contest, Rule 6 of which states: "In case of ties, if two or more persons tie in submitting the correct solutions to the first group of puzzles, then the first two or more prizes will be reserved for those contestants and the prizes will be awarded in the order of the accuracy of the submissions of those contestants to a first, and if necessary a second tie-breaking group of puzzles divided in series exactly like the first group."

(3) In accordance with the above, the tie-breaking puzzles inside this folder are divided into twenty series of six puzzles each, as were the original group of puzzles. In order to expedite the determining of winners, and the payment of prizes, you are asked to submit your solutions in three groups of six or more series at a time, in accordance with the dates specified below:—

Send in your solutions to Series No. 1 through No. 6 not later than midnight, Saturday, January 9, 1943.

Send in your solutions to Series No. 7 through No. 12 not later than midnight, Saturday, January 16, 1943.

Send in your solutions to Series No. 13 through No. 18 not later than midnight, Saturday, January 23, 1943.

If you wish, you may submit your solutions earlier than the dates specified above, but you are asked to mail the solutions to at least the first 6 series not later than midnight, Saturday, January 9.

(4) Each series must be accompanied by 15 cents in coin as required in the Official Rules of the contest, Rule No. 7 of which provides that, in return for such remittances you will receive a second book, entirely different in contents from the other book which you are going to receive in return for the remittances you send in with your solutions to the first group of puzzles.

(5) While success does not come in this contest, kindly cooperate by filling in your solutions as legibly as possible. Be sure to fill in your solutions in the correct spaces alongside the corresponding numbers provided on the Answer Form for each series. Be sure, too, that your name and address are plainly printed or written on each of the Answer Forms and also in the upper left corner of the envelope you use to send in your tie-breaking solutions.

HOW TO SEND IN YOUR SOLUTIONS

In view of the extreme importance of your tie-breaking solutions and the deadline for mailing them, please be sure to address your envelope accurately. Address your envelope to:

Contest Editor
All-American Penny Contest
P. O. Box 66, Trinity Station
New York, N.Y.

Please print your own name and address in the upper left corner of your envelope.

In order to expedite the dissemination of winning solutions of puzzles, the following schedule of mailing dates is being followed in sending tie-breaking solutions:

Submit solutions to Series 1 through Series 6 not later than midnight, Saturday, January 9.

Submit solutions to Series 7 through Series 12 not later than midnight, Saturday, January 16.

Submit solutions to Series 13 through Series 20 not later than midnight, Saturday, January 23.

You may submit solutions earlier than the dates specified if you wish, but it is necessary that your solutions to at least the first 6 series be mailed not later than midnight, Saturday, January 9.

In accordance with the rules of the contest, 15 cents in coin must be enclosed with each series of six puzzle solutions, in return for which you will receive a bound book entirely devoted to solutions from the class whom you are to receive credit for winning. You will also receive your solutions for the unbroken group of puzzles. When you will receive two books. In connection with the rules, the books will be distributed in the sequence of the contest when winners are announced and prizes awarded.

Please make sure your solutions is joined, pen and ink, and the handwriting is legible. Before your solutions are LEGIBLE, clearly written or printed, and USE ONLY THE OFFICIAL ANSWER FORMS IN THIS TIE-BREAKING FORMER for mailing in your tie-breaking solutions. Before mailing your envelope be certain that the instructions as to who wins the rules are observed and THAT YOUR NAME AND ADDRESS ARE CLEARLY WRITTEN OR PRINTED ON EACH OF THE ANSWER FORMS.

POSITIVELY NO CHANGES OR SUBSTITUTIONS OF SOLUTIONS CAN BE MADE ONCE YOUR TIE-BREAKING SOLUTIONS HAVE BEEN RECEIVED BY US.

THE FOLLOWING INFORMATION WITH REGARD TO CONSTRUCTION OF THE PUZZLES IS SUPPLIED TO CONTESTANTS ELIGIBLE TO SOLVE TIE-BREAKING PUZZLES

1. Arriving at the correct solutions to these puzzles is purely a matter of skill. There is only one correct solution to each puzzle.

2. Each one of the objects pictured has a name—a DEFINITE name. That name is composed of only one word. That word, which is the name of the object pictured, is a single, unhyphenated word. This is clearly illustrated in the next paragraph.

3. The name of each and every object pictured is, as pointed out, ONE-WORD NAME. For example: An object would be called a HOCKEY, not a HOCKING CHAIR; a TRAY, not a SERVING TRAY. In other words, no compound term consisting of two or more separate words, have been employed. No hyphenated words have been used.

4. In solving these puzzles, you should maintain the exact order of the letters in the words as you write them down. If you have mixed all the objects around, the letters you have left after adding and subtracting should yield the correct solution.

5. Weights and measures are represented by using the equivalent representation of such weight or measure.

6. Psychological characters are represented by their classical psychological representation.

7. The names of trees, flowers, etc., are represented by showing a typical part of such a plant, such as the leaves of the plant, the flower of the plant, the form of the tree, etc.

8. Names of colors are represented by printing the equivalent value on an artificial representation of a color.

No attempt is made to reproduce the size or thickness of the real object.

9. Names of livable designs are represented by placing such designs within a conventional shield.

10. Words which are not both an compound terms or hyphenated words in Webster's New International Dictionary, 2nd Edition, have not been employed.

11. Where symbols have been employed to represent a word, such symbols are specifically illustrated. Such symbols may represent a word in musical notation, in code in mathematics, a mark in electrical notation, in broadcasting, etc., etc.

12. The names of geographical entities, such as countries, States, etc., are indicated by maps. In such a map, the capital of the State or country is indicated by a star.

13. To verify the correct name of an object pictured, you can consult the definition given in Webster's New International Dictionary, 2nd Edition, or compare with any other book at your disposal for both the definition and the illustration.

14. Do not be discouraged if you fail to solve one or more of these puzzles, for remember, they are intended to be tie-breaking puzzles. There is always the possibility that somebody else may win the same puzzle or more puzzles than you solved. You can still win the higher prize if you have the higher total score, no matter how many puzzles you may have solved. Judgments will not be a factor in determining the winners, nor will trivial errors or frequent mistakes in spelling count against the contestants if in the opinion of the judges the contestants have arrived at the correct solutions of the puzzle.

your particular attention to the fact that in order that you may have approximately the same amount of time to solve the puzzles as any other tying contestant, the dates printed on the tie-breaking folder you will receive should be extended by three days. The exact dates will be specified in a memorandum included with your tie-breaking puzzles.

With all good wishes, and again congratulating you, we remain
Very truly yours,

ALL-AMERICAN CONTEST,
By MALLIE MCKAY,
Contest Editor.

MM: H.

165 [Photostat.]

166 [Photostat.]

167 *Government's Exhibit 2-G.*

THE ALL-AMERICAN PUZZLE CONTEST

Under Direction of Publishers Service Company, Inc., 75 West Street, New York, N. Y.

Office of Contest Editor.

Address All Communications to Puzzle Contest Editor, All-American Contest, P. O. Box 88 Trinity Station, New York, N. Y.

FEBRUARY 17, 1943.

Please be advised that you have been credited with 120 correct solutions to the first group of tie-breaking puzzles, giving you a total score in the contest of 240. You still remain tied for the highest prize that can be won in the contest.

In order to determine the winners as provided by the rules, I am forwarding to you under separate cover today:

(A) The final group of tie-breaking puzzles.
(B) An Affidavit form which certifies that you did not buy, sell or exchange answers in this contest and that you are not entered in the contest as an agent or proxy for any other person. You are asked to sign this Affidavit and have your signature witnessed. Please take note: This Affidavit Does Not Mean that you have already won. The winners can not possibly be determined until after the final tie-breaking puzzles, Affidavits, and letters are received.

(C) A Special Letter Form. You are to use this form in submitting the letter as required by the rules. The letter will only be considered in event ties exist on the final tie-breaker.

You will find complete details and dates for sending in your answers included with the tie-breaking puzzles which are being sent to you under separate cover. With every good wish for your success consistent with fairness to those with whom you are tied, believe us,

Most sincerely yours,

ALL-AMERICAN CONTEST,
By MALLIE MCKAY,
Contest Editor.

168

SPECIAL LETTER FORM

In the space below, please fill in your own original letter of not more than 200 words on the subject:

"My Choice for American Hero No. 1"

This letter must be sent in with your solutions to Series 13 through 20, and is required under the rules of the contest. Only in case ties still exist after all tie-breaking solutions have been checked will the letters be considered, and in that event they will be judged on the basis of originality in description and general interest. You can use typewriter or write by hand.

Be Sure to Fill in Name and Address in Space Below

Contestant's Name _____

Address _____

City _____ State _____

169 Enclose this Affidavit when sending in your solutions to the first 6 Series (No. 1 through No. 6 inclusive) to the final tie-breaking group of puzzles, not later than Midnight, February 27, 1943.

AFFIDAVIT

Date _____

To Whom It May Concern:

I, the undersigned, hereby affirm that the puzzle solutions I have submitted in the All-American Puzzle Contest represent my own individual effort, and that said solutions were not supplied to me by any outside source, nor were they obtained by me through purchase or exchange. I further certify that I am not entered in this contest as an agent or as a proxy for any other person or persons and that I am not under any obligation, written or oral, legal or moral, to turn over the amount of any prize, or any portion of same, to any person or group of persons who have supplied either

The All-American Puzzle Contest

FINAL TIE-BREAKING PUZZLES

GENERAL INSTRUCTIONS

Be Sure To Read Carefully.

REGULATIONS GOVERNING THE SUBMISSION OF SOLUTIONS TO THESE FINAL TIE-BREAKING PUZZLES

(1) As explained in the accompanying letter, this FINAL TIE-BREAKING GROUP OF PUZZLES is sent to you for solution in order to determine winners of the contest between the still remains.

(2) This is in accordance with the Official Rules of the contest, Rule 8 of which states:

"In case of ties, if two or more persons tie in submitting the correct solutions to the first group of puzzles, then the first two or more prizes will be reserved for those contestants and the prizes will be awarded in the order of accuracy of the submissions of those contestants in a first, and if necessary, a second tie-breaking group of puzzles divided in series exactly like the first group. . . In case a second tie-breaking group of puzzles is necessary, contestants eligible to solve same will be required to accompany their solutions to this second tie-breaking group of puzzles with a letter of not more than 200 words on the subject: "My Choice for American Hero No. 1."

(3) In accordance with the above, the puzzles in this FINAL GROUP OF THE TIE-BREAKING PUZZLES are divided into twenty Series of six puzzles each, or were the original group of puzzles and first tie-breaking group. In order to expedite the final tie-breaking period and determine the winners as promptly as possible, you are asked to submit your solutions to this final group of puzzles in three groups of six or more Series at a time, in accordance with the dates specified below:

Send in your solutions to Series No. 1 through Series No. 6 not later than midnight, Saturday, February 27, 1943, or earlier if possible.

Send in your solutions to Series No. 7 through Series No. 12 not later than 5 p.m. Saturday, March 6, 1943, or earlier if possible.

Send in your solutions to Series No. 13 through Series No. 18 not later than midnight, Saturday, March 13, or earlier if possible.

Three envelopes are enclosed for mailing your solutions.

HOW TO SEND IN YOUR SOLUTIONS

Please note that three envelopes are enclosed, in which you are asked to send in your solutions to the FINAL TIE-BREAKING PUZZLES in this folder.

Three envelopes are provided for sending in your solutions to the 20 series in three parts, as follows:

Envelope No. 1 through Series 1 through Series 6 are to be submitted not later than midnight, Saturday, February 27, 1943.

Envelope No. 2 through Series 7 through Series 12 are to be submitted not later than 5 p.m. Saturday, March 6, 1943.

Envelope No. 3 through Series 13 through Series 18 are to be submitted not later than midnight, Saturday, March 13, 1943.

Envelope No. 1 through Series No. 6 should be accompanied by the Affidavit Form, properly signed by yourself and one witness. This Affidavit must not be signed by a notary public at this time. Mail it in the envelope, with Series No. 1 through Series No. 6 not later than midnight, February 27, 1943.

Please remember always that you are **REQUIRED** to use the 200 word, not more than one line already used, the subject "My Choice for American Hero No. 1." This letter is in accordance with the rules, will be taken into consideration only AFTER the solutions to these final tie-breaking puzzles have been checked, and only in the event that still 2 or more.

In accordance with the rules of the contest, entries 20 cases in one will not be accepted, excepting when in a small place of paper before being sent in the envelope, in which you will enclose a small book neatly enclosed in a envelope from the other books you will receive.

IMPORTANT: We Have Enclosed With This Bulletin:

(1) Three envelopes—one in which to send in your solutions to Series No. 1 through Series No. 6; another in which to send in your solutions to Series No. 7 through Series No. 12; and a third in which to send in your Solutions to Series No. 13 through Series No. 18.

(4) In sending in your solutions to Series No. 1 through Series No. 6, you are asked to accompany them 6 series with the Affidavit Form, properly signed and witnessed. This Affidavit need not be signed by a Notary Public at this time. These first six Series with the Affidavit Form should be mailed not later than Saturday, February 27th, and earlier if possible.

(5) Solutions to Series No. 7 through Series No. 12 should be mailed not later than Saturday, March 6th, and earlier if possible.

(6) Your solutions to Series No. 13 through Series No. 20 must be accompanied by a letter of not more than 200 words on the subject: "My Choice for American Hero No. 1." The Special Letter Form which you are to write the letter is enclosed herewith. Mail Series No. 13 through Series No. 20, with letter enclosed, not later than March 13th earlier if possible.

(7) With each Series of six puzzle solutions, enclose 18 cents in postage with the return, in return for which, as provided by the rules, you will receive a third book entirely different in contents from the other books which you are going to receive in return for the solutions you send in with your solutions to the first two groups of puzzles.

(8) While postage will not count in this contest, identify yourself by filing in your solutions as logically as possible. Be sure, too, that your name and address are plainly stated on each of the Answer Forms as well as the Special Letter Form. Also be sure to print your name and address on the upper left corner of each envelope in which you enclose your solutions.

(9) Do not be discouraged if you fail to solve one or more of the puzzles, for remember, they are intended to tie-breaking puzzles. There is always the possibility that somebody else may solve the one or more puzzles than you did.

Regarding the Letter You Are Required to Send in With Series 13 Through 20

Note the Special Letter Form enclosed. On this Special Letter Form, write a letter of not more than 200 words on the subject: "My Choice for American Hero No. 1." This letter must be sent in with your solutions to Series No. 13 through Series No. 20 and must be mailed not later than March 13th.

This letter is required under the official rules of the contest and will be taken into consideration ONLY in case there still are entries to this final tie-breaking group of puzzles have been checked.

We urge you to give this letter the same careful attention that you have given to the solutions of the puzzles. Remember that this letter may be the final basis for determining the winners, in accordance with the rules, if the still exist after the solutions to these final tie-breaking puzzles have been checked.

In that case, the letter will be judged on the basis of originality to description and general interest.

Remember, your letter should contain not more than 200 words. It should be written, either by typewriter or by hand, on the Special Letter Form and herewith.

If necessary to consider the letters in determining winners, letters will be photostated without the name of the contestants and will be given only on identifying number, so that the identity of the contestants who wrote the letter will not be known to the judges of the letters.

This will be done in order to assure absolute impartiality and to maintain the same standards of fairness that have been observed throughout this contest.

(2) An Affidavit Form to be signed and enclosed with your solutions to Series No. 1 through Series No. 6, and mailed not later than midnight, February 27th, and earlier if possible.

(3) A Special Letter Form on which you are required to write a letter of not more than 200 words on the subject: "My Choice for American Hero No. 1." This form to be sent in with your solutions to Series No. 13 through Series No. 20, not later than midnight, March 13th, and earlier if possible.

advice or assistance in solving the puzzles or in writing the Special Letter as called for under the Rules. In the event I am awarded a prize I am willing to sign this Affidavit under oath, prior to receiving my check.

Signature of Contestant
Address
City State
Witnessed by

170 [Photostat.]

171 *Government's Exhibit 2-H*

THE ALL-AMERICAN PUZZLE CONTEST

Under Direction of Publishers Service Company, Inc., 75 West Street, New York, N. Y.

Office of Contest Editor.

Address All Communications to Puzzle Contest Editor, All-American Contest, P. O. Box 88 Trinity Station, New York N. Y.

APRIL 16, 1943.

You would be conferring a great favor upon me if you could help me in disposing of some more of the books. In this connection it occurs to me that the enclosed descriptive circular about the books would be of considerable interest to you.

As you will note from the enclosed, these books have been designed for permanency, with the thought that they would remain in home libraries for generations to come, reflecting an intensely accurate history of our generation and the problems and interests of the people of our time.

No matter how large a prize you may win in this contest, and it is entirely possible that you may win as much as \$20,000, it would seem to me that surely a large portion of your pride would come from the knowledge that through this contest you rendered valuable help in the successful distribution of an important literary work of enduring quality based on America and on the cultural and the fundamental interests of the American people.

Unquestionably, these sets of books will make most desirable gifts. In expressing the hope that perhaps you could help me dispose of one or more sets, it would seem that you could use them advantageously as birthday, anniversary or Christmas gifts. With reference to sending these sets to men in the armed services, surely few volumes would be more appropriate or more desired than the human, homely, interesting stories contained in the volumes of **THIS IS YOUR AMERICA**.

Most sincerely I hope you can find use for another set of the volumes.

172 If there is any way that you can see your way clear to make use of another set of the books for gift purposes, please be assured that your co-operation would be most deeply appreciated by me. Your purchase will represent to me your realization that I have succeeded in conducting a fair, equitable, efficient contest in which every entry was afforded the same, impartial, accurate handling, where every entry was given the same opportunity to win, and a contest in which the contestants themselves co-operated liberally and voluntarily in their effort to make the contest a fine success from the standpoint of the sponsor.

Naturally, if I could tell you that you were going to win \$20,000, or \$4,000, or \$2,000, or almost any of the larger prizes, I am sure that you would be only too glad to purchase many sets of the volumes. But I cannot make any such statement to you. The winners are not yet determined and I do not know who the winners will be.

It is entirely possible that you may win \$20,000, because it is absolutely certain that either you or one of the other persons with whom you are tied must be designated as the winner of the First Prize in this contest. However, under no circumstances would we permit any contestant to purchase books under the impression that the purchase would cause the contestant to win the \$20,000 prize or any other prize for that matter.

In my previous letter I told you that I could offer you no inducement, prize or otherwise, for helping me dispose of one or more sets. I trust you realize the spirit in which this is written. Most earnestly we seek your interest in the sale of our books, but just as earnestly we want every contestant to know that the winning of the prizes is not in any way dependent upon the purchase of more books.

However, we do intend to reward the two entrants who help us dispose of the most sets by April 21st, by giving each of those two entrants a set of the latest edition of the complete Encyclopedia Britannica regardless of any cash prize won in the contest by these two entrants. We want to make these gifts entirely aside from the contest. We want to make these two gifts purely as a gesture of appreciation to the two contestants who might, without any selfish motive, and fully realizing that their efforts would not influence their winning of a prize in the contest, decide to try seriously to help us in selling our books.

For your convenience, I will provide spaces for an order form on the third page of this letter below the signature, and you
173 can use the third page of this letter for ordering books and specifying shipping addresses. In case you have already sent in an order on the form previously sent to you, you will not need this form. However, if you did not order any books previously but wish to do so now, in view of the added information you have about the books, this form will be convenient. The special reduced price for contestants applies to this offer. Any check or money order enclosed should be made payable to All-American contest. Please mail same on or before Midnight April 21st, enclosing same in the enclosed self-addressed envelope. This envelope will be given preferred attention in the handling of our mail.

Looking forward with pleasure to your reply on or before April 21st, and trusting that the outcome of the contest will meet with your fond expectations, consistent with fairness to one and all, believe me

Most sincerely yours,

ALL-AMERICAN CONTEST,
By MOLLIE MCKAY,
Contest Editor.

MAM:h.

ORDER FORM FOR BOOKS

I enclose herewith \$_____, as one-third payment for _____ set(s) of the three-volume work This Is Your America, at the Rate of \$7.50 per set. I will send the balance in two weekly payments of \$_____ each. (In case you wish to pay in full, please fill in here): I attach \$_____ as full payment for _____ set(s) of the three-volume work This Is Your America, at the Rate of \$7.50 per set. If check or money order is attached, same should be made payable to All-American Contest.

Name _____ Address _____ City _____ State _____

Contestant's name _____

Address _____

City, State _____

This Order Form Should Be Mailed on or Before Midnight April 21st.

PUBLISHERS SERVICE COMPANY, INCORPORATED

73 WEST STREET

Telephone Whitehall 4-6626

NEW YORK, N. Y., April 23rd, 1943.

Address reply to All-American Contest, M. A. McKay, Contest Editor.

We notified you yesterday that qualified contestants would be forwarded Forms on which to indicate their choice of War Bonds or cash, or the proportion of each desired.

At the time this letter is written the judging is still in progress. Therefore, the request for this information regarding cash or War Bonds is not to be taken as notification that you have already won because the winners are not yet determined. On the other hand, it is entirely possible that you will be awarded the \$20,000 First Prize because it is inevitable that either you or one of the persons tied with you must be designated as the winner of First Prize in this contest.

If you are awarded the First Prize, you will be entitled to receive \$20,000 in cash. If you wanted the entire prize paid in Series F War Bonds, the cash investment would be \$19,998.50, and the maturity value of the bonds would be \$27,025.00. For example, if the winner of First Prize decided to have about half of the prize paid in cash and the other half to be paid in War Bonds, the winner could receive \$10,010.00 in Cash in addition to War Bonds with a maturity value of \$13,500.00. As you probably know, Series F War Bonds have maturity value in excess of one-third more than their cash value at time of purchase.

The sponsors of this contest do not gain any financial benefit irrespective of whether the winners choose to have their prizes paid all in War Bonds, or all in Cash, or part War Bonds and part cash. Naturally, in case the winners of the larger prizes took a substantial part of their prizes in War Bonds, we would publicize that fact in the announcement of the winners. Also, like all 175 good Americans placed in our position, we want to do everything possible within the spirit of our contest rules to encourage the purchase of War Bonds.

Please understand, however, that your decision as to what amount of Bonds you would want, if you would wish any at all, will not in the slightest way whatsoever affect the selection of your entry as a winner. The names and addresses of the contestants have not been included on the photostats of submissions from which the winners are being determined. Nor have the judges

any way of knowing the choice of the winning entrants as to the matter of War Bonds or cash.

We are enclosing the authorization Form herewith. Please note that your signature is required at the top and bottom in addition to the spaces for indication as to War Bonds and Cash. Please fill in and return the Form to us not later than Midnight of April 27th. Mail same in the enclosed self-addressed envelope in order that it may receive preferred attention in the sorting of the large amount of mail this company receives.

There is one matter I would like to ask you about, and, again, this has nothing whatever to do with your selection as the \$20,000 winner or the winner of any other prize. What I would like to ask you is whether or not there is any way you might help me dispose of some more of our books. There is no inducement, prize or otherwise, that I can offer you in return for this favor. All I can offer is our gratitude to you for helping to make this contest a success from the standpoint of selling the books. I feel sure that you could make excellent use of the books as gifts, and that they would be highly regarded by their recipients. They should be ideal as gifts for men in the armed service.

In any event, if you can find some way to help me in the matter of the books, won't you please do so, using the lower spaces provided on the Form. Most sincerely will I personally appreciate your cooperation in this matter.

Thanking you in advance for your cooperation, and asking that you fill in and mail your instructions in the enclosed envelope before Midnight of April 27th, believe me with all good wishes,

Most sincerely yours,

ALL-AMERICAN CONTEST,
By MOLLIE MCKAY,
Contest Editor.

MAM:H.

Over a period of many years, it has been the policy of contest sponsors not to reveal, except in a general way, the number of persons who enter any given contest or the number of contestants who either finish the contest or participate in any form of final tie-breaking. On the other hand, it is the standard policy with this company to publish in the announcement of winners the exact number of puzzles correctly solved by each winning contestant, together with the correct solutions for all of the puzzles used in the contest, tie-breaking puzzles as well as the original puzzles, and also the name and address of all winners. We likewise wish to point out that the files of all winners are available to any contestant at the conclusion of the contest, winners and losers alike.

We do not want to encourage any contestant to take part in the tie-breaking phase of the contest if that contestant is under the impression only a very few contestants are tied and that every contestant who is tied is certain to win a prize.

177 [Photostat.]

178 *Government's Exhibit 3*

A DIVISION OF READ MAGAZINE, INC.

FACTS

THE MAGAZINE MORE FASCINATING THAN FICTION

PUBLISHED MONTHLY BY FACTS PUBLISHING COMPANY

Editorial and General Offices

75 WEST STREET, NEW YORK 6, N. Y.

We have received your Group of 80 Solutions in our contest and wish to congratulate you upon your promptness in sending your solutions to the 80 puzzles. At the same time, however, may we point out that the final Series need not have been submitted until midnight of June 16th, as provided by the rules, and therefore, no announcements as to the result of the contest can be made until after that date.

We mention the above in order that you may understand that even though you submitted the 80 solutions far in advance of the required deadline, there is no way in which the contest can be speeded up, because the rules establish June 16th as the deadline and we must adhere to the rules.

We would also like to point out that the rules of the contest specify that the contestants will receive, in return for their remittances, the July selection of the book club. Therefore, we trust you will understand that you will not receive the book until that month.

We hope you will enjoy this contest and that, consistent with fairness to all contestants, you will realize your fond expectations. However, in view of the fact that your solutions were sent in so far ahead of the final deadline, we thought it advisable to make it clear to you that the contest does not close until June 16th, and that the book will not be delivered until July.

Announcement of Winners

ALL-AMERICAN CONTEST

Advertised and Conducted by Publishers' Service Co., Inc., 75 West Street, New York, N.Y.

1st Prize .. \$10,000

Won by . . .

MABEL D. ABRAMSON

2906 Columbus Ave., Minneapolis, Minn.

Won by . . .

ELLA CHURCHILL WARREN

2405 Glenmary Avenue, Louisville, Ky.

It was the final decision of the judges that the contestants named above submitted tie-breaking letters of equal merit and that each was entitled to the First Prize. The full amount of the prize won was awarded to each of the above winners.

2nd Prize .. \$2,000

Won by . . .

ALMA LEE DYER

Route One, Hermiston, Oregon

3rd Prize .. \$1,000

Won by . . .

PAUL P. ZACHARY

1117 Keighn Avenue, Camden, New Jersey

4th Prize . \$500

MRS. E. J. BOGERT

226 Bailey St., New Cumberland, Pa.

5th Prize . \$250

H. G. WEST

600 Woodland Drive, Greensboro, N.C.

6th Prize . \$250

HENRY G. WENZEL, JR.

115-01 60th Ave., Richmond Hill, N.Y.

7th Prize . \$250

EMILIE H. PONHLAC

1977 King's Highway, Fairfield, Conn.

8th Prize . \$100

KENNETH B. BROWN

1219 W. Water St., Elizabethtown, New York

9th Prize . \$100

MRS. CHARLES C. WADDE

6323 Harding Ave., Slatonville, Ohio

10th Prize . \$100

JAMES J. PALFY

2191 West 28th St., Cleveland, Ohio

WINNERS OF 11th to 100th PRIZES:

Long, Miss Mabel, 11045 So. Penny St., Minneapolis, Minn.; Mrs. Bertha Hulthen, 202 S. 47th St., Brooklyn, N. Y.; Mrs. A. V. Holden, 211 No. Government St., Chehalis, Wash.; Mrs. Vernon T. Hougham, 100-15 7th Ave., Brooklyn, N. Y.; C. S. Hulthen, 1000 Franklin Ave., Calumet, O.; F. M. Hulthen, 2026 N. West End Ave., Indianapolis, Ind.; Mrs. Vera Hulthen, Spokane, Wash.; D. J. Mary Aug., 91 Grand Ave., So., Minneapolis, Minn.; Mrs. Adela Jones, 202 N. Maple Ave., Winona, Ky.; Mrs. Rose Kilian, 6001 Ave., Medina, N. Y.; E. G. Kline, 202 29th St., U. S. N. National Marine, Va.; Mrs. L. W. Kline, Box 205, Newmarket, Tenn.; Curtis A. Kline, 1711 North East First Ave., Miami, Fla.; George Otto Klineberg, 227 Walnut St., Waukesha, Conn.; Ward Knobell, R. D. No. 2, Louisville, Ky.; William E. Kramer, 107 W. Cooper St., Akron, Penn.; Norman E. Lester, 2801 Indianapolis Ave., Indianapolis, Ind.; Goldie M. Lane, 1107 Ohio St., Apt. B, South Bend, Ind.; Mrs. Bertha Lofgren, Minneapolis, Minn.; Mrs. Cly J. Lovis, Hogan Road, Germantown, Tenn.; Robert C. MacCann, 4915 Ogdenboro St., Hinsdale, Ill.; Mrs. Charles Malone, 919 N. Avalon St., Memphis, Tenn.; Mrs. Norman Mandberg, 5726 So. Alameda, Chicago, Ill.; Miss Malone, 44 Ramsey St., Springfield, Mass.; Norman A. Magie, Box 226, Adelton, Tenn.; Mrs. Mary G. Morris, 17 Hoynes St., Hartford, Conn.; Raymond H. Motzger, 123 St. Joseph Ave., Buffalo, N. Y.; Dorothy D. Michael, Box 184, Louisville, Ky.; Evans Lee Miller, Bensenville, Ky.; Mrs. Earl C. Moore, 202 Center St., Winooski, Vt.; Miss Mary

Moore, Dorothy, Ky.; Mrs. A. T. Nixon, Box 252, Pendleton, S. C.; Mrs. F. Murphy, 222 W. 31st, Apt. No. 4, San Francisco, Calif.; Mrs. William E. McCay, 1429 West Sales St., Pennsylvania Plz.; A. D. Malone, 1979 Court Ave., Memphis, Tenn.; Mrs. Leo A. Nikolai, 827 Fourth Ave., Madison, Miss.; Mrs. John L. O'Brien, 1600 E. 17th St., Cleveland, O.; Peter J. Peters, Box 122, South Bond, Tex.; C. C. Phillips, 236 South Union Ave., Pittsburgh, Pa.; Mrs. J. H. Pfeiffer, 200 E. Main St., Somerset, Ky.; Mrs. Allen S. Potter, 7205 University North, Seattle, Wash.; Mrs. William W. Ramsey, 49 Wm. W. Ramsey, Radio Maintenance, Women-Gates Army Air Depot, Waco-Robins, Ga.; Mrs. Virginia Radcliffe, 920 Homer Ave., Kansas City, Kan.; Margaret V. Riley, 545-55th St., Brooklyn, N. Y.; Mrs. J. Schleicher, 1220 Vanderbilt Ave., Hamilton, O.; L. J. Schermer, 1213 W. Market St., Latrobe, Ky.; G. R. Shaw, 3112 Supreme St., Indianapolis, Ind.; Mrs. Eugene L. Sherry, 22 Miller Plaza, Lockport, N. Y.; Mrs. W. E. Stephen, House 469, Marine City, Calif.; Nellie Sorenson, 6800 Yucca St., Hollywood, Calif.; Mary Lee Talbot, 1620 N. North Park Ave., Chicago, Ill.; Mrs. Norma S. Thom, 26 Spring St., Manchester, Conn.; R. W. Tripp, 286 N. High St., Columbus, O.; Mrs. George Tryschak, Box 124, Thompson, N. B.; James A. Vass, 23 Rooney Plaza, Cape May Court House, N. J.; Charlotte Webb, 303-32nd Ave., So., Nashville, Tenn.; Mrs. E. L. Webster, 1801 Main St., Waco, Texas; Mrs. Edward Williams, Box 128, East Polk Street, O.; Mrs. H. H. Williams, Rockwood, Tenn.

SOLUTIONS TO THE PUZZLES

1st Group: 1-McCormick, 2-McCormick, 3-McCormick, 4-Clay, 5-Dunay, 6-Green, 7-Patt, 8-Lincoln, 9-Lincoln, 10-Lincoln, 11-Lincoln, 12-Lincoln, 13-Cody, 14-Lowell, 15-Lowell, 16-Lowell, 17-Lowell, 18-Lowell, 19-Lowell, 20-Tuck, 21-Henry, 22-Henry, 23-Henry, 24-Henry, 25-Henry, 26-Henry, 27-Henry, 28-Henry, 29-Henry, 30-Henry, 31-Henry, 32-Henry, 33-Henry, 34-Henry, 35-Henry, 36-Henry, 37-Henry, 38-Henry, 39-Henry, 40-Henry, 41-Henry, 42-Henry, 43-Henry, 44-Henry, 45-Henry, 46-Henry, 47-Henry, 48-Henry, 49-Henry, 50-Henry, 51-Henry, 52-Henry, 53-Henry, 54-Henry, 55-Henry, 56-Henry, 57-Henry, 58-Henry, 59-Henry, 60-Henry, 61-Henry, 62-Henry, 63-Henry, 64-Henry, 65-Henry, 66-Henry, 67-Henry, 68-Henry, 69-Henry, 70-Henry, 71-Henry, 72-Henry, 73-Henry, 74-Henry, 75-Henry, 76-Henry, 77-Henry, 78-Henry, 79-Henry, 80-Henry, 81-Henry, 82-Henry, 83-Henry, 84-Henry, 85-Henry, 86-Henry, 87-Henry, 88-Henry, 89-Henry, 90-Henry, 91-Henry, 92-Henry, 93-Henry, 94-Henry, 95-Henry, 96-Henry, 97-Henry, 98-Henry, 99-Henry, 100-Henry, 101-Henry, 102-Henry, 103-Henry, 104-Henry, 105-Henry, 106-Henry, 107-Henry, 108-Henry, 109-Henry, 110-Henry, 111-Henry, 112-Henry, 113-Henry, 114-Henry, 115-Henry, 116-Henry.

2nd Company: 1-Holmes, 2-Chapman, 3-Trotter, 4-McCoy, 5-Schaefer, 6-Garfield,
7-DeLong, 8-DeLong, 9-DeLong, 10-DeLong, 11-Cox, 12-McCoy, 13-Win-
ters, 14-DeLong, 15-DeLong, 16-DeLong, 17-DeLong, 18-DeLong, 19-DeLong,
20-DeLong, 21-DeLong, 22-DeLong, 23-DeLong, 24-DeLong, 25-DeLong, 26-DeLong,
27-DeLong, 28-DeLong, 29-DeLong, 30-DeLong, 31-DeLong, 32-DeLong, 33-DeLong,
34-DeLong, 35-DeLong, 36-DeLong, 37-DeLong, 38-DeLong, 39-DeLong,
40-DeLong, 41-DeLong, 42-DeLong, 43-DeLong, 44-DeLong, 45-DeLong, 46-
DeLong, 47-DeLong, 48-DeLong, 49-DeLong, 50-DeLong, 51-DeLong, 52-DeLong,
53-DeLong, 54-DeLong, 55-DeLong, 56-DeLong, 57-DeLong, 58-DeLong,
59-DeLong, 60-DeLong, 61-DeLong, 62-DeLong, 63-DeLong, 64-DeLong,
65-DeLong, 66-DeLong, 67-DeLong, 68-DeLong, 69-DeLong, 70-DeLong,
71-DeLong, 72-DeLong, 73-DeLong, 74-DeLong, 75-DeLong, 76-DeLong,
77-DeLong, 78-DeLong, 79-DeLong, 80-DeLong, 81-DeLong, 82-DeLong,
83-DeLong, 84-DeLong, 85-DeLong, 86-DeLong, 87-DeLong, 88-DeLong,
89-DeLong, 90-DeLong, 91-DeLong, 92-DeLong, 93-DeLong, 94-DeLong,
95-DeLong, 96-DeLong, 97-DeLong, 98-DeLong, 99-DeLong, 100-DeLong, 101-
DeLong, 102-DeLong, 103-DeLong, 104-DeLong, 105-DeLong, 106-DeLong, 107-
DeLong, 108-DeLong, 109-DeLong, 110-DeLong, 111-DeLong, 112-DeLong, 113-DeLong.

As provided by the rules of the contest, two tie-breaking groups of puzzles and a letter on the subject "My Choice for American Hero No. 1" were required in order to determine the winners. The final awarding of prizes was based on the merit of the letters submitted in view of the perfect solutions to the second group of tie-breaking puzzles submitted by tying contestants. In other words, all winners submitted correct solutions to 360 puzzles, and in addition wrote what the judges considered the best letters.

To those contestants whose puzzle solutions were correct but whose letters failed to win, may we advise that the judges gave long, careful and impartial consideration to the letters. The actual letters were photostated, without the name and address of the contestant. Consequently, the judges did not know the identity of the writers.

The judging was under the direction of an independent organization, the same outstanding contest-judging company employed by most of the larger national advertisers for the purpose of judging their contests.

The organization, in its official letter advising of its selection of winners, writes as follows:

"We have judged hundreds of important contests, and are

familiar with the handling of other contests which we have not judged. It is our opinion that no contest ever conducted, in which letters were the final basis of determining awards, has been conducted with more care, thoroughness and zeal in the final selection of winning letters."

The winners of the prizes have signed affidavits that their puzzle solutions and their letters represent the individual effort of those contestants and were submitted in accordance with the rules of the contest.

Distribution of the books to which contestants are entitled has been made as provided in the rules. Any person who has not received the books and who is entitled to same is requested to notify Publishers Service Company, Inc., 75 West Street, New York, N. Y.

The sponsors wish to thank all who participated and will be glad to answer any inquiries from contestants.

This Complete List of Winnets, together with the correct solutions to all 360 puzzles, has been mailed to all participants in the contest. If for any reason you took part in the contest and did not receive this announcement of winners, please communicate at once with the sponsors, Publishers Service Company, Inc., 75 West Street, New York, N. Y.

PUBLISHERS SERVICE COMPANY, INC.

If this is not entirely clear and satisfactory to you, kindly advise us at once, using the reverse side of this letter for your reply, in which event we will, of course, return your solutions and remittances.

With all good wishes, we remain
Most cordially yours,

FACTS MAGAZINE,
By JUDITH S. JOHNSON,
Contest Editor.

JSJ:ns20

179

Government's Exhibit 4

A DIVISION OF READ MAGAZINE, INC.

FACTS

THE MAGAZINE MORE FASCINATING THAN FICTION

PUBLISHED MONTHLY BY FACTS PUBLISHING COMPANY

Editorial and General Offices

75 WEST STREET, NEW YORK 6, N. Y.

Note Carefully: The Deadline for Sending Solutions to the 80 Puzzles is Midnight, Saturday, June 16, 1945.

From JUDITH S. JOHNSON,

Contest Editor of Facts.

To All Contestants:

As you undoubtedly know, the deadline for sending in the solutions to the 80 puzzles is Midnight, June 16th.

Solutions will be checked as promptly as possible, consistent with accurate and efficient judging, and the results will be made known within two or three weeks following June 16th.

To you, this contest represents an opportunity to win \$10,000, \$2,000, \$1,000 or any of 500 cash prizes.

To Facts, this contest represents an opportunity to win your good-will and friendship. To that end, Facts wants to do everything within its power. We shall continue to try throughout this contest to make this contest the finest, most interesting, most efficiently conducted of any contest you have ever entered.

Since this is a general letter, it naturally will be received both by contestants who still have some of the 80 solutions to send in before Midnight, June 16th, as well as by other contestants who have already mailed in all of their 80 answers.

With the June 16th deadline so close at hand, I would like to take this opportunity in behalf of the Editors of Facts, to express the hope that you have enjoyed this contest, and that, with fairness to one and all, you may realize your fond expectations.

May I emphasize what we said at the very beginning of the contest, namely: If You Are Entitled to win, You Shall Win! Be sure any of the remaining 80 solutions are mailed before the deadline, June 16th at Midnight, and send them in with absolute assurance that your entry will receive the most careful, accurate, considerate attention.

With every good wish for your success, consistent with fairness for one and all, and trusting that this contest will be the means of making you a life-long friend of Facts, I remain

Very sincerely yours,

FACTS MAGAZINE,
By JUDITH S. JOHNSON,

Contest Editor.

P. S.—For your convenience, we enclose all 80 puzzles, just in case you may need them, or in the event some one else may want to enter before Midnight, June 16th.

180

Government's Exhibit 5

A DIVISION OF READ MAGAZINE, INC.

FACTS

THE MAGAZINE MORE FASCINATING THAN FICTION

PUBLISHED MONTHLY BY FACTS PUBLISHING COMPANY

Editorial and General Offices

75 West Street, New York 6, N. Y.

From the CONTEST EDITOR of Facts Magazine.

DEAR FRIEND: We have received your entry in our contest and we send you herewith the complete Group of 80 puzzles.

You have already submitted your solutions to the 1st Series (Puzzles No. 1, 2, 3, 4). Therefore, continue on with the contest. Solve the next Series of puzzles, etc., and just continue to mail your solutions to the various Series of puzzles in accordance with the instructions printed with the puzzles.

Facts Magazine welcomes you into this contest and extends to you every good wish for your success consistent with fairness to every other entrant. We hope to make this contest the most efficiently and pleasantly conducted of any contest you have ever entered. To this end, we ask your kind cooperation.

Here is how you can help the Contest Department. First, please write or print your solution just as legibly and clearly as you can. Second, make sure that your name and address are clearly printed or written on each Answer Form that you submit.

The rules, details, sample puzzles and instructions are so clearly stated in the enclosed booklet which contains all of the 80 puzzles that it seems needless to repeat them here. As you will note in the booklet, it is permissible under the rules to mail your solutions to two or more Series in the same envelope if you wish to do so. It is possible that you may wish to mail your solutions to the 2nd and 3rd Series at the same time, or perhaps the 2nd, 3rd, and 4th Series at the same time. If you wish to do so, this is permissible under the rules. Please wrap coins in a small piece of paper before inserting in your envelope.

Continue to submit your solutions just as promptly as you can. This will make for the utmost efficiency in conducting the contest. Once more, accept this cordial welcome from Facts. From time to time, if news of importance develops, you can depend upon hearing from us. With all good wishes, we remain

Very truly yours,

FACTS MAGAZINE,
By JUDITH S. JOHNSON,
Contest Editor.

JSJ:sv.

181

Government's Exhibit 6

A DIVISION OF READ MAGAZINE, INC.

FACTS

THE MAGAZINE MORE FASCINATING THAN FICTION

PUBLISHED MONTHLY BY FACTS PUBLISHING COMPANY

Editorial and General Offices

75 WEST STREET, NEW YORK 6, N. Y.

From the CONTEST EDITOR of Facts Magazine to All of our Friends:

DEAR FRIEND: We have received your request for the 80 puzzles in our contest, and in reply we are pleased to mail same to you herewith.

We hope you will enjoy these puzzles, and that you will become an entrant in our contest. First Prize will be \$10,000.

Whether you enter the contest or not, the puzzles are yours to do with as you please. It has been a pleasure for Facts Magazine to send them to you, and we are very glad to have the oppor-

tunity of getting acquainted. We are conducting this contest to win good-will, friends and readers, and to that end we will do everything possible to make this contest one of the most efficiently conducted that you have ever entered.

Please accept our cordial invitation to enter the contest. Try seriously to win. We assure you that your entry will receive the utmost consideration—the fair, impartial, accurate attention that every contest lover desires.

Let us assure you that you are under no obligation either now, or at any future time to buy Facts or to subscribe for same. That will have no bearing whatever on your winning a prize in our contest.

Now, as to participating in the contest, may we offer these suggestions, despite the fact that all of them are clearly outlined in the enclosed booklet which contains the 80 puzzles.

First: Study the Sample Puzzle and the method by which it was solved. Be sure you understand how the sample puzzle was solved before trying to solve the official puzzles of the contest. You will find the sample puzzles on the front page of the enclosed booklet, and also on page 2, as well as on the back page.

Second: Read the instructions and rules carefully. Be sure you understand how to proceed in the contest. Note particularly that you can include more than one series of solutions in the same envelope if you wish to do so. For instance, you may wish to send in your solutions to Series Nos. 1 and 2, or Series Nos. 1, 2, and 3 in the same envelope. If so, this is permissible.

182 As you will note when you study the instructions, you will be entitled to receive a book, the July selection of the Literary Classics Book Club, in return for the payment which the rules require with each Series of solutions. In sending in your solutions, please wrap your coins in a small piece of paper before enclosing in the envelope.

Begin with Series No. 1, which consists of Puzzles 1, 2, 3, 4. Solve these puzzles. Fill in your solutions on the Entry Form which you will find on Page 4 of the enclosed booklet. Address your envelope in accordance with the address on the top of the Entry Form, and enclose 15 cents in coin. The rules require this remittance for each Series.

Now that you have the 80 puzzles, together with all rules, details, etc., we hope you will enter the contest and give yourself an opportunity to win \$10,000, \$2,000, \$1,000 or any of the 500 cash prizes that will be awarded.

We look forward with pleasure to receiving your entry, and again we wish to assure you same will be given our prompt and careful attention.

With all good wishes for your success in the contest, consistent with fairness for one and all, we beg to remain

Most cordially yours,

FACTS MAGAZINE,
By JUDITH S. JOHNSON,
Contest Editor.

JSJ:bk.

183

Government's Exhibit 7

A DIVISION OF READ MAGAZINE, INC.

FACTS

THE MAGAZINE MORE FASCINATING THAN FICTION

PUBLISHED MONTHLY BY FACTS PUBLISHING COMPANY

Editorial and General Offices

75 WEST STREET, NEW YORK 6, N. Y.

DEAR FRIEND: In a desire to provide all contestants with identical information, the Contest Editor of Facts Magazine has prepared a mimeographed set of standard replies for the answering of questions asked by contestants.

In preparing the answers, the various questions that have been asked by contestants have been compiled and an answer to each question follows the question itself.

The enclosed questions and answers will be our standard question and answer form that we will send to contestants sending in inquiries.

Perhaps you will find the exact question you have asked; almost verbatim, among the questions on the attached. If not, we believe that you may find a question so closely approximating your own question, that the answer to the question you asked in your letter will be clear.

We hope you will agree with us that this is the best method we can arrange for handling inquiries in such manner that no individual contestant who writes to us will be able to obtain any information that would give that contestant an advantage over any other contestant who happened to write in but did not ask the same question or did not phrase the question in the same way.

From time to time, this list of questions and answers may be enlarged. Inquiries will be answered throughout the contest by the

latest standardized question and answer form ready for distribution on the date on which the inquiry is received.

Sincerely yours,

FACTS MAGAZINE,
By JUDITH S. JOHNSON,

Contest Editor.

JJ: af3.
encl.

184

Government's Exhibit 7-A

Question. I tore or in some other way lost one of the pages or puzzles in the bulletin of puzzles. Please send me another set of puzzles.

Answer. Enclosed is an additional booklet of the 80 puzzles.

Question. Is it permissible to send stamps instead of coin?

Answer. Yes, it is.

Question. I travel a great deal and may be late occasionally in submitting my solutions to you on a weekly basis. Will such lateness disqualify me?

Answer. No. As long as all your solutions to the 80 puzzles are mailed no later than June 16th, 1945, you will still be eligible to compete. However, to facilitate the filing and checking of solutions, please try to follow as closely as possible the weekly mailing dates for the submission of your solutions.

Question. Who will do the judging of this contest?

Answer. The Reuben H. Donnelley Company of New York.

Question. I expect to go into the Services shortly. Will that disqualify me from continuing in the contest?

Answer. No, that will not disqualify you.

Question. I believe one of the puzzles is incorrect. I cannot seem to get the solution.

Answer. Try solving it again. The puzzles were checked carefully and are correct as drawn.

Question. Is it necessary to show how I solved each puzzle when I submit my solution?

Answer. No. Just copy your solutions Carefully on to the Answer Forms. Please watch your spelling.

Question. Will you please send me the tie-breaking puzzles now so that I can solve them?

Answer. Puzzles must be checked before determining to whom tie-breakers should be sent. Tie-breakers will not be sent out until it has been determined that you are entitled to receive same by virtue of being tied with other contestants also entitled to receive the same tie-breaker.

Question. Does just the one name represented by the puzzle have to be written on the Answer Form, or do we have to write the full name of the person or object represented?

Answer. Just the name you actually arrive at as a result of solving the puzzle. In some cases, it may be the last name only. In others, it may be the full name.

Revised.

185

Government's Exhibit 7-B

Question. Where will the correct solutions and the names of the winners be announced?

Answer. The winners' names, as well as the correct solutions, will be published in Facts Magazine after the contest is closed and the submissions checked and judged.

Question. Is it necessary to enclose 15¢ with each Series of 4 puzzles, or is it 15¢ for the whole Group of 80 puzzles?

Answer. Please read Rule No. 8 of the Official Rules carefully. It states that each Series of 4 puzzles must be accompanied by 15¢. The Group of 80 puzzles consists of 20 Series, each of which must be accompanied by 15¢ in coin.

Question. If I solve all 80 puzzles correctly, will I get a prize?

Answer. If you are the only person in the contest to correctly solve all 80 of the puzzles, then and in that event you will automatically be entitled to the first prize. However, if other persons also correctly solve 80 puzzles and thereby become tied with you, then the procedure as to the breaking of ties and the determination of winners follow the provisions as set forth in Rule No. 9 of the Official Rules to which you are referred now.

Question. I enclose my solutions to the first 4 puzzles. Please write and tell me whether or not I solved them correctly before I send in the solutions to the rest of the puzzles.

Answer. The contest closes June 16th, 1945. We cannot tell you now whether your first 4 puzzle solutions are right or wrong since the Donnelley Company does not judge a contestant's solutions until all his 80 solutions are in.

Question. Is it proper for me to send you now my 200-word letter on the subject "The Puzzle I Found Most Interesting and Educational in This Contest?" I am enclosing it anyway.

Answer. No, and we return the letter to you herewith. Please read the rules carefully. The contest does not close until June 16th, 1945, and until the tie-breakers as provided in the rules are sent out and returnable, there is no occasion for sending in the 200-word letter.

Question. I expect to move during the next month or so. How will mail that you send me reach me?

Answer. Any mail we may send you will be addressed to the address you give us on your Answer Form. Therefore, please register your change of address with your Post Office.

186

Government's Exhibit 7-C

Question. Can members of the same family compete in this contest? May members of the U. S. Armed Forces compete?

Answer. Yes. This contest is open to everybody except employees and relatives of employees of Facts Magazine or any person or firm directly or indirectly employed in conducting the contest.

Question. Where should my puzzle solutions be sent—to Contest Editor, Box 324, Church Street Post Office Annex, New York, 8, N. Y., or to Contest Editor, 75 West Street, New York, 6, N. Y.?

Answer. Either of the above two addresses is correct.

Question. Can I send check or money order instead of coins, in order to qualify my solutions in accordance with Rule #8?

Answer. Yes. But if you send coins, please wrap in piece of paper before enclosing in envelope.

Question. If I receive the puzzles late, or if I should happen to skip a week or two in submitting my solutions to any particular Series of puzzles, will I be disqualified and not permitted to continue in the contest?

Answer. No. Should you be late in sending in any of the solutions to the 80 puzzles in accordance with the suggested submission dates printed in the puzzle bulletin, please remember you can bring yourself up to date in the contest simply by mailing in the previous weeks' Series of puzzle solutions along with the current series. In all events, you have until June 16th, 1945 as provided in the rules to submit your solutions to all 80 puzzles. Naturally, it will greatly facilitate filing and judging if you submit your answers in accordance with the suggested submission dates as printed on the puzzles.

Question. Can I send in my solutions all at one time to all the remaining puzzles as issued instead of waiting to submit them in accordance with the dates specified?

Answer. Yes.

Question. Can I send payment for the entire Group of 80 puzzles along with my solutions to the first or second or third Series, instead of enclosing coins with each week's solutions?

Answer. Yes. Provided, however, that with your solutions to each of the following Series of puzzles, you are sure to enclose a note stating the date and amount of your previous remittance.

Question. When do I receive the book in return for my qualifying remittances?

Answer. Contestants who submit a complete Group of solutions qualified in accordance with the rules of the contest will receive the book selected for the month of July 1945 by the Literary Classics Book Club. You should receive the book late in July or during the early part of August. Entrants who for any reason drop out of the contest before sending in the entire Group of 80 solutions will receive, after the prizes are awarded, a set of "Quotations by Famous Statesmen."

187

Government's Exhibit 7-D

Question. Can I change or alter any of my solutions once I have submitted them?

Answer. No. In fairness to all contestants, once you have sent us your Answer Forms containing your solutions, no changes or alterations can be made.

Question. Will it be necessary for me to buy the magazine or to subscribe for it in order to compete in the contest?

Answer. No. You are under no obligation now, or at any future time, to buy the magazine or to subscribe for it. Please read the rules of the contest carefully.

Question. What do I receive in return for my remittances which are to accompany the puzzle solutions in accordance with the rules?

Answer. Please read the rules carefully. Rule #8 provides that "each contestant who submits a complete Group of solutions for this contest qualified in accordance with the Rules will receive the book selected for the month of July by the Literary Classics Book Club. Any contestant who becomes eligible to submit, and who does submit, a Group of qualified tie-breaking solutions, will receive the following month's Book Club selection. Entrants who for any reason drop out of the contest before sending in the Group of 80 solutions will receive a set of 'Quotations by Famous Statesmen.'"

Question. Will you please send me an acknowledgment of having received my solutions and remittances as I mail them to you weekly with my remittances?

Answer. The only way we can acknowledge receipt of your solutions is if you specifically request a receipt each time you send in your solutions and enclose a self-addressed stamped envelope. We will then mail you a copy of this sheet which will serve as an acknowledgment.

Question. If I accidentally wrote my solutions for a Series of puzzles horizontally across the answer form instead of vertically on the 4 lines but nevertheless got all 4 of them correct, will this be held against me?

Answer. No.

Question. I just happened to come across the announcement of your contest and am wondering if I am too late to enter and compete at this time. How can I enter and bring myself up to date?

Answer. It is not too late to enter the contest now since the rules provide that you may send in your final Series of solutions to the 80 puzzles comprising the Group of puzzles any time before June 16th, 1945. Simply send in your solutions to the various Series of puzzles in accordance with the suggested submission dates printed at the top of the page of each Series of puzzles. Then continue on in the contest. If you do not have the bulletin containing all 80 puzzles, write us and we will send it to you free, or else you can obtain it on your local newsstand for 5 cents.

188

Government's Exhibit 7-E

Question. Can members of the same family compete in this contest? May members of the U. S. Armed Forces compete?

Answer. Yes. This contest is open to everybody except employees and relatives of employees of Facts Magazine or any person or firm directly or indirectly employed in conducting the contest.

Question. Can I use pencil in filling in the solutions on my Answer Forms?

Answer. Use pencil, pen or typewriter. Please print or write your solutions, as well as your name and address, clearly and legibly.

Question. Can I send check or money order instead of coins, in order to qualify my solutions in accordance with Rule #8?

Answer. Yes. But if you send coins, please wrap in piece of paper before enclosing in envelope.

Question. If I receive the puzzles late, or if I should happen to skip a week or two in submitting my solutions to any particular Series of puzzles, will I be disqualified and not permitted to continue in the contest?

Answer. No. Should you be late in sending in any of the solutions to the 80 puzzles in accordance with the suggested submission dates printed in the puzzle bulletin, please remember you can bring yourself up to date in the contest simply by mailing in the previous weeks' Series of puzzle solutions along with the current series. In all events, you have until June 16th, 1945, as provided in the rules to submit your solutions to all 80 puzzles. Naturally, it will greatly facilitate filing and judging if you submit your answers in accordance with the suggested submission dates as printed on the puzzles.

Question. Can I send in my solutions all at one time to all the remaining puzzles as issued instead of waiting to submit them in accordance with the dates specified?

Answer. Yes.

Question. Can I send payment for the entire Group of 80 puzzles along with my solutions to the first or second or third Series, instead of enclosing coins with each week's solutions?

Answer. Yes. Provided, however, that with your solutions to each of the following Series of puzzles, you are sure to enclose a note stating the date and amount of your previous remittance.

Question. When do I receive the book in return for my qualifying remittances?

Answer. Contestants who submit a complete Group of solutions qualified in accordance with the rules of the contest will receive the book selected for the month of July 1945 by the Literary Classics Book Club. You should receive the book late in July or during the early part of August. Entrants who for any reason drop out of the contest before sending in the entire Group of 80 solutions will receive, after the prizes are awarded, a set of "Quotations by Famous Statesmen."

188-A Question. Can I change or alter any of my solutions once I have submitted them?

Answer. No. In fairness to all contestants, once you have sent us your Answer Forms containing your solutions, no changes or alterations can be made.

Question. Will it be necessary for me to buy the magazine or to subscribe for it in order to compete in the contest?

Answer. No. You are under no obligation now, or at any future time, to buy the magazine or to subscribe for it. Please read the rules of the contest carefully.

Question. What do I receive in return for my remittances which are to accompany the puzzle solutions in accordance with the rules?

Answer. Please read the rules carefully. Rule #8 provides that "each contestant who submits a complete Group of solutions for this contest qualified in accordance with the Rules will receive the book selected for the month of July by the Literary Classics Book Club. Any contestant who becomes eligible to submit, and who does submit, a Group of qualified tie-breaking solutions, will receive the following month's Book Club selection. Entrants who for any reason drop out of the contest before sending in the Group of 80 solutions will receive a set of "Quotations by Famous Statesmen."

Question. Will you please send me an acknowledgment of having received my solutions and remittances as I mail them to you weekly with my remittances?

Answer. The only way we can acknowledge receipt of your solutions is if you specifically request a receipt each time you send in your solutions. We will then mail you a copy of this sheet which will serve as an acknowledgment.

Question. If I accidentally wrote my solutions for a Series of puzzles horizontally across the answer form instead of vertically on the 4 lines but nevertheless got all 4 of them correct, will this be held against me?

Answer. No.

Question. I just happened to come across the announcement of your contest and am wondering if I am too late to enter and compete at this time. How can I enter and bring myself up to date?

Answer. It is not too late to enter the contest now since the rules provide that you may send in your final Series of solutions to the 80 puzzles comprising the Group of puzzles any time before June 16th, 1945. Simply send in your solutions to the various Series of puzzles in accordance with the suggested submission dates printed at the top of the page of each Series of puzzles. Then continue on in the contest. If you do not have the bulletin containing all 80 puzzles, write us and we will send it to you free, or else you can obtain it on your local newsstand for 5 cents.

189.

Government Exhibit 7-F.

Question. Will it be necessary for me to buy the magazine or to for it in order to compete in the contest?

Answer. No. You are under no obligation now, or at any future time, to buy the magazine or to subscribe for it. Please read the rules of the contest carefully.

Question. What do I receive in return for my remittances which are to accompany the puzzle solutions in accordance with the rules?

Answer. Please read the rules carefully. Rule #8 provides that "each contestant who submits a complete group of solutions for this contest qualified in accordance with the Rules will receive the book selected for the month of July by the Literary Classics Book Club. Any contestant who becomes eligible to submit, and who does submit, a Group of qualified tie-breaking solutions, will receive the following month's Book Club selection. Entrants who for any reason drop out of the contest before sending in the Group of 80 solutions will receive a set of "Quotations by Famous Statesmen."

Question. Will you please send me an acknowledgment of having received my solutions as I mail them to you weekly with my remittances?

Answer. The only way we can acknowledge receipt of your solutions is if you specifically request a receipt each time you send your solutions in. We will then mail you a copy of this sheet which will serve as an acknowledgment.

Question. If I happen to write my solution for puzzle No. 2, for example, in the line reserved for puzzle No. 3 on the Answer Form, will that be held against me?

Answer. No.

Question. I just happened to come across the announcement of your contest and am wondering if I am too late to enter and compete at this time. How can I enter and bring myself up to date?

Answer. It is not too late to enter the contest now since the rules provide that you may send in your solutions to the 80 puzzles comprising the Group of puzzles any time before June 16th, 1945.

Simply send in your solutions to the various Series of puzzles in accordance with the suggested submission dates printed at the top of the page of each Series of puzzles. Then continue on in the contest.

If you do not have the bulletin containing all 80 puzzles, write us and we will send it to you free, or else you can obtain it on your local news stand for 5 cents.

Question. I tore or in some other way lost one of the pages or puzzles in the bulletin of puzzles. Please send me another set of puzzles.

Answer. Here it is.

190 **Question.** Can I have another set of puzzles? I tore or lost the other one, or a friend of mine wants a set.

Answer. Another set of puzzles is enclosed herewith.

Question. I travel a great deal and may be late occasionally in submitting my solutions to you on a weekly basis. Will such lateness disqualify me?

Answer. No. As long as all your solutions to the 80 puzzles are mailed no later than June 16th, 1945, you will still be eligible to compete. However, to facilitate the filing and checking of solutions, please try to follow as closely as possible the weekly mailing dates for the submission of your solutions.

Question. I expect to go into the Services shortly. Will that disqualify me from continuing in the contest?

Answer. No; that will not disqualify you.

A DIVISION OF READ MAGAZINE, INC.

FACTS

THE MAGAZINE MORE FASCINATING THAN FICTION

PUBLISHED MONTHLY BY FACTS PUBLISHING COMPANY

Editorial and General Offices

75 WEST STREET, NEW YORK 6, N. Y.

We are pleased to acknowledge your entry in our puzzle contest. Please accept the cordial good wishes of Facts Magazine for your success in the contest. May we urge you to compete earnestly and seriously in the contest because we assure you that your entry will have every care and consideration.

May we take this opportunity to point out a few of the little things you can do to cooperate with us in making this contest the most efficiently conducted of any in which you have ever participated.

First: may we ask you to write or print your solutions just as clearly and legibly as possible. This is very important, because, in the checking of solutions, the judges can achieve maximum accuracy only when the solution is written or printed in such manner as to leave no doubt as to the correctness or incorrectness of the answer. The same care should be used in printing or writing your name and address on each of the Answer Forms. Please help us to be accurate in spelling your name and in sending notifications to your correct address.

Also, we would like to point out that the book which contestants will receive from the Literary Classics Book Club as provided in the rules, is the July selection of the Club. Therefore, please do not expect your book until that month. Once more, the legibility of name and address are important because we want to be certain that your book reaches you.

As provided in the rules, it is permissible to send in more than one Series of solutions in the same envelope, but please be certain that your name and address are correctly filled in on each Series. Also, kindly wrap coins in a small piece of paper before inserting in your envelope.

It is the hope of Facts Magazine that we will win a great many loyal friends as a result of the contest. As you undoubtedly understand, you are not under any obligation whatever to buy Facts or subscribe to Facts. Merely,

send in your solutions as called for under the rules, enclosing the remittances as specified. On the other hand, if you like Facts—if you enjoy its editorial contents—if you feel that it contains the type of reading that you enjoy, then, of course, we are more than happy that this contest was a means of introducing you to our magazine.

This contest is being conducted for Facts by the same organization that has paid out many hundreds of thousands of dollars in prizes in magazine and newspaper contests. As you have probably noted in the announcements, we will pay \$10,000 First Prize, \$2,000 Second Prize, \$1,000 Third Prize, and 497 other cash prizes.

More than anything else, Facts hopes to win your good will and friendship through this contest. To that end we will faithfully do everything possible to give you the very best possible opportunity to win a prize, consistent of course with fairness to all other persons who are competing in the contest.

With every good wish, and trusting that the contest will be a source of happiness for all concerned—for you, for your competitors and for Facts, we remain

Most cordially yours,

FACTS MAGAZINE,
By JUDITH S. JOHNSON,
Contest Editor.

JSJ:ns.

Government's Exhibit 9

193

A DIVISION OF READ MAGAZINE, INC.

FACTS

THE MAGAZINE MORE FASCINATING THAN FICTION

PUBLISHED MONTHLY BY FACTS PUBLISHING COMPANY

Editorial and General Offices

75 WEST STREET, NEW YORK 6, N. Y.

From the Office of HENRY WALSH LEE,
Editor of Facts Magazine:

DEAR CONTESTANT: Please accept the cordial good wishes of the Editors of Facts for your success and pleasure in our Contest:

If you have not yet sent in your solutions to the 2nd or 3rd Series, please mail those two Series as soon as possible—not later than May 5th. Then continue sending in two or more Series each week at your convenience until you have caught up with the submission dates specified in the puzzle booklet for the later Series.

Of course, if you have already sent in your 2nd, 3rd, or 4th or later Series, then, naturally, the advice as to dates given above does not apply to you.

The Editors of Facts want you to know that we feel keenly the confidence you have in our publication. It is the purpose of this contest to widen the friendships of Facts and to popularize the Literary Classics Book Club, and to this end we want to do everything possible, with fairness for all, to make this contest the most efficiently conducted and the most pleasant you have ever entered.

We urge you to try your best in the contest * * * to compete as earnestly and sincerely as you can * * * and to be absolutely confident that if you deserve to win, you shall win.

This is a form letter, sent by the Editors to greet and welcome contestants in the Facts Magazine Puzzle Contest. The duplicate booklet of puzzles herewith is enclosed as a convenience to all contestants for use in case they have mislaid or mutilated any of the puzzles they already have. This booklet will also prove helpful to the many contestants who have requested a duplicate set of puzzles for some friend or relative who wishes to enter the contest.

Again, accept our best wishes, and our assurance that your solutions will have prompt, efficient attention.

Most cordially,

FACTS MAGAZINE,
By HENRY WALSH LEE,
Editor in Chief.

HWL:mb.

194

Government's Exhibit 10

ST. LOUIS, MISSOURI, August 28th, 1945.

Referred to New York Div. without acknowledgment. Inspector in Charge. St. Louis, Mo. Date 8-28-45. Initials M. MR. Mr. GUENTHER,

Postal Inspectors Office,

208 Federal Bldg., St. Louis, Missouri.

DEAR MR. GUENTHER: Pursuant to our conversation of the 24th, I am attaching hereto the complete file in the Facts Magazine Puzzle contest.

As previously stated, I secured the first copy of this in one of the Indiana newspapers. After having submitted the first complete set of eighty puzzles, I was informed that all answers were correct and sent an eligibility form, requiring me to subscribe to the Literary Classics Book Club. The length of the subscription was to be decided by me.

After having sent them \$12.00, registered mail (receipts for which are part of this file), which was for a four months subscription, I was then forwarded a tie-breaking puzzle contest, which I also submitted, together with the \$3.00 required (15¢ for each set of four puzzles).

When this was completed, they sent me an appendage, increasing the amount of the prize money from \$20,000.00 to \$40,000.00, provided that I sent an additional subscription for a longer period to the Literary Classics Book Club. Copy of this Appendage is also a part of this file.

In their initial rules, they at no time mentioned any subscriptions, nor did they at any time set a definite time for the final closing of the contest. However, at each time they sent a set of puzzles or an eligibility form, they had a definite time limit when it should be mailed. I failed in sending the last Eligibility form on the specified time. However, I did send it about six hours later, which will probably affect my eligibility.

As previously stated to you, I have become a bit dubious, due to the fact they continue requesting funds for additional subscriptions. Should they send me any additional information, I will immediately submit it to you.

Thanking you in advance for any information you may be able to give me on this, I am,

Very truly yours,

Adele M. Beckman,
ADELE M. BECKMAN,
5838 Enright, Apt. 203,
St. Louis 12, Missouri.

195

Government's Exhibit 10-C

A DIVISION OF READ MAGAZINE, INC.

FACTS

THE MAGAZINE MORE FASCINATING THAN FICTION

PUBLISHED MONTHLY BY FACTS PUBLISHING COMPANY.

Editorial and General Offices

75 WEST STREET, NEW YORK 6, N. Y.

July 3, 1945.

Tie-Breaking Puzzles Forwarded By Registered Mail

Mrs. ADELE M. BECKMAN,

5838 Enright, Apt. 203, St. Louis, Mo.

DEAR MRS. BECKMAN: It gives us great pleasure to advise you that the solutions you submitted in our Puzzle Contest were adjudged correct in their entirety.

In extending our congratulations, we feel sure you will be interested in knowing that many thousands of persons who competed against you either missed one or more of the puzzles or dropped out of the contest entirely. Among the puzzles which contestants found the more difficult were Nos. 39, 40, 59, 63. Contestants who submitted all 80 correct solutions are tied.

By Registered Mail a tie-breaking group of puzzles will be forwarded to you for solution in accordance with the rules of the contest. Ten thousand dollars is the amount which we will pay to the tying contestant who becomes the First Prize Winner, as provided in the rules. As a tying contestant, you have an opportunity to become the winner of the First Prize.

Facts Magazine desires to take every precaution to avoid all possible disappointment or ill-will on the part of contestants. For that reason, we wish to make it clear to you that the receipt of this tie-breaker by you does not mean that you have already won a prize or that you are certain to win First Prize, Second Prize or any other prize in this contest. If you should win the \$10,000 First Prize or any other prize, you will be definitely notified of that fact by us as soon as possible. Meanwhile, in submitting solutions to the tie-breaker, to avoid any and all possibility of disappointment, please consider the tie-breaker strictly as provided for in the rules, and not as assurance by us, either direct or implied, that you are going to win the \$10,000 First Prize, Second Prize or any other prize in the contest.

Within the next day or two you may expect to receive by Registered Mail the tie-breaking puzzles. Full instructions will be printed with the tie-breaking puzzles, as to the date for submitting your tie-breaking solutions.

With all good wishes, and again congratulating you, we remain
Very sincerely yours,

FACTS MAGAZINE,
By JUDITH S. JOHNSON,
Contest Editor.

JSJ:ar.

Government's Exhibit 10-D

A DIVISION OF READ MAGAZINE, INC.

FACTS

THE MAGAZINE MORE FASCINATING THAN FICTION

PUBLISHED MONTHLY BY FACTS PUBLISHING COMPANY

Editorial and General Offices

75 WEST STREET, NEW YORK 6, N. Y.,

July 5, 1946.

Mrs. ADELE M. BECKMAN,

5838 Enright, Apt. 203, St. Louis, Mo.

DEAR MRS. BECKMAN: Under separate cover I am sending you a Form for Specifying Prize Eligibility. This form should be filled in and returned to us within 5 days after receipt by you if possible, and sooner if you can do so. It must become a part of your file in the contest.

In view of your standing in the contest, you will be delighted to know that we are going to pay double the amount of the prizes originally offered in this contest as provided in the Eligibility Form which you will receive. This extra \$17,500.00 which we are going to pay is our effort to encourage the purchase of more books issued by the Literary Classics Book Club.

You are now tied, with eligibility to compete for as much as \$10,000.00 as First Prize. Under our double-prize offer, you may win as much as \$20,000.00 First Prize. Second Prize may be as much as \$4,000.00, Third Prize as much as \$2,000.00. Any portion of the extra \$17,500.00 which is not required to be paid under the terms of our double-prize offer will be used to increase the number of prizes beyond the 500 Prizes already provided.

The necessary provisions for qualifying yourself to compete for the double prizes are fully set forth in your Prize Eligibility Form, but stated briefly, the offer is simply this: If you will remain a member of our Book Club for the two-month period specified in the Eligibility Form, then any prize you may win will be increased by one-half. If you will remain a member of our Book Club for the four-month period specified, then any prize you may win will be doubled. If you wish, you can send either one or two 2-month paid memberships as gifts to friends, and thus qualify for the added one-half or doubled prizes.

Please understand that your eligibility to compete for the original prizes remains, regardless of whether you do or do not

qualify for eligibility to compete for the higher prizes. In other words, this is a privilege and not an obligation in any sense of the word.

With all good wishes, we remain

Most sincerely yours,

FACTS MAGAZINE,
By JUDITH S. JOHNSON,
Contest Editor.

JSJ: jr.

197

Government's Exhibit 10-E

A DIVISION OF READ MAGAZINE, INC.

FACTS

THE MAGAZINE MORE FASCINATING THAN FICTION

PUBLISHED MONTHLY BY FACTS PUBLISHING COMPANY

Editorial and General Offices

75 WEST STREET, NEW YORK 6, N. Y.,

July 6, 1945.

Mrs. ADELE M. BECKMAN,
5838 Enright, Apt 203, St. Louis, Mo.

DEAR Mrs. BECKMAN: You will find enclosed herewith the Prize Eligibility Form mentioned in my previous letter.

This Prize Eligibility Form requires your signature in two places to enable you to become eligible to compete for as much as \$20,000 or \$15,000 as First Prize in accordance with the terms of the double prize offer, and in addition, provides the necessary spaces for signifying acceptance of the terms of the offer.

This Form and any extensions applying to same must become a part of your file in the contest, and we will thank you to fill in same and mail to us within five days after receipt by you if possible, or earlier if you can do so.

As announced in my letter, we will pay the doubled and increased prizes to those winners who qualify for same as per the requirements specified in the Eligibility Form or, in the event any portion of the added \$17,500 is not used in paying doubled and increased prizes to the winners, then in extra prizes to be added to the 500 Prizes already provided.

Obviously, it would seem most unfortunate to me if any tied contestant who becomes a prize winner had failed to take the fullest advantage of this opportunity to win the doubled prize. To the

1st Prize winner it means the difference between receiving \$10,000, and receiving \$15,000 or \$20,000. To the 2d Prize winner it means the difference between receiving \$2,000, and receiving \$3,000 or \$4,000. In every case it means receiving one and one-half or twice the amount of the original prizes offered.

To be awarded double the amount of any prize you may win, the only requirement necessary is that you remain a member of the Book Club for the four-month period specified in the Form, or, if you prefer, remain a member for the two-month period and give another two-month membership to a friend. In case you merely continue your own membership for the two-month period specified, you become eligible to compete for \$15,000 instead of \$10,000. Payment for the book memberships is to be sent in with the Eligibility Form.

198 The enclosed Prize Eligibility Form specifies exactly what the increased value of First Prize will be if it should be won by you in case you continue in the Book Club for the two-month period, or the four-month period, as provided in the Eligibility Form. Gifts of Book Club memberships can be given to friends if you prefer. All of the 500 prizes will be increased in proportion.

At this point I would like to point out that your eligibility to compete for all of the original prizes offered remains the same regardless of whether or not you send in the continuation of your own membership or send in any gift memberships. In other words, please understand that there is no obligation whatever. Instead, we consider it a marvelous opportunity. The sending in of the Book Club memberships cannot cause any contestant to win. It will merely increase the amount of the prize that may be won.

The Prize Eligibility Form should be filled in and mailed back to us within five days after you receive same if possible, or earlier if you can do so. The special mailing envelope enclosed herewith should be used for returning the Price Eligibility Form. Please enclose in the same envelope the proper remittance for the Book Club memberships you send in. We will appreciate it if you will mail back the Prize Eligibility Form to us as soon as possible, because, again, I would like to point out that it must become a part of your file in the contest.

We consider this a wonderful opportunity for the contestant and definitely not as an obligation. You are one of the tied contestants, and someone among the tying contestants must inevitably win the First Prize in this contest. The winning of the prizes will be determined by the tie-breaking requirements of the contest as provided in the rules. We naturally do not know who will win the First Prize or the Second Prize or any prize at all for

that matter. On the other hand, we do know positively that the amount of the First Prize will be either \$20,000, \$15,000, or \$10,000, depending on whether or not the winner, whoever the winner may be, submits the Book Club memberships as specified in the Eligibility Form. The same proportionate increases apply to all other prizes offered in the contest.

We would like to point out again that there is no financial saving in prizes to the sponsor in case no doubled or increased prizes are won, because any portion of the added \$17,500 which is not used in paying doubled and increased prizes will be used for extra prizes to be added after the 500th Prize. Thus, the entire amount must be paid out in prizes in one form or another.

Awaiting receipt of your Prize Eligibility Form in an early mail, and wishing you all success in the contest, consistent with fairness to all, believe me to be

Most sincerely yours,

FACTS MAGAZINE,
By JUDITH S. JOHNSON,
Contest Editor.

JSJ: jr.

199

Government's Exhibit 19-F

St. Louis, Missouri, July 12th, 1945.

Miss JUDITH S. JOHNSON,

*Contest Editor, Facts Magazine,
P. O. Box 324, Church St. Post Office (Annex),
New York 8, N. Y.*

DEAR Miss JOHNSON: Under separate cover, registered mail, I am sending you the complete set of tie-breaking puzzles, numbers one to eighty inclusive. My reason for sending them all at one time, in one envelope, was because of the currency involved. For the same reason, I registered same.

Also, under separate cover, registered mail, the prize eligibility form, together with \$12.00 in currency has gone forward to you, in accordance with the rules and regulations of the contest.

If there are any other requirements, I feel sure you will advise me.

It has been a pleasure, I assure you to have had the privilege of being one of the contestants—I enjoyed it immensely.

Thanking you, I am,

Sincerely,

ADELE M. BECKMAN,
5838 Enright Ave., Apt. 203,
St. Louis 12, Missouri.

Government's Exhibit 10-G

A DIVISION OF READ MAGAZINE, INC.

FACTS

THE MAGAZINE MORE FASCINATING THAN FICTION

PUBLISHED MONTHLY BY FACTS PUBLISHING COMPANY

Editorial and General Offices

75 WEST STREET, NEW YORK 6, N. Y.,

August 15, 1945.

Mrs. ADELE M. BECKMAN,

5838 Enright Apt. 203, St. Louis 12, Mo.

DEAR MRS. BECKMAN: It is a pleasure to notify you that you made a perfect score of 80 correct solutions on the first Group of tie-breaking puzzles. Your total score in the contest at this point is 160 correct solutions, and you still remain tied with contestants who have scores of 160 identical with your own.

The final tie-breaking puzzles are now being prepared. The prize winners will be determined after those contestants with present scores of 160 correct solutions have received and have submitted their solutions to the final tie-breaker accompanying them with the letter as provided by the Official Rules.

We believe we have delightful news for all contestants who, like yourself, now have scores of 160 correct solutions and are now eligible to compete in the final tie-breaking phases of the contest. Here is the news:—we are going to make it possible for the First Prize Winner to receive as much as \$40,000; 2nd Prize Winner \$8,000; 3rd Prize Winner \$4,000; with all 497 other prizes quadruple the original amounts offered.

While we are sure that you are happy to know that you have solved 160 puzzles correctly thus far, and are now in position to go into the final tie-breaking phases of the contest, FACTS Magazine desires to continue to take every precaution within its power to prevent disappointment or ill will among those who fail to win prizes.

Therefore, please let me again make clear, just as I did when sending you the first Group of tie-breaking puzzles, that this letter is not to be interpreted by you as meaning that you have already won the First Prize or any prize at all.

201 Please understand that your status is strictly this: It is possible that you may win First Prize, or one of the other

prizes, but this possibility must be based on your submissions to the final tie-breaking requirements of the contest. Also, realize at the same time that the final tie-breaking puzzles will be by far the most difficult puzzles presented in the contest and that you are competing with a very large number of very able competitors. Someone among the many contestants (perhaps it may be you or it may be someone else) who now has a present score of 160 correct solutions will ultimately win First Prize in this contest, and this will be determined by the final tie-breaking requirements as provided in the rules, but FACTS Magazine does not want any contestant to be under the impression that he or she is certain to win any prize or that a very small number of people are tied.

We urge you to compete seriously and diligently in the final tie-breaking phases with our assurance that every possible means has been provided to give your submissions careful, accurate, efficient attention, and that if you are entitled to win you shall win, at the same time realizing that this is a contest among a large number of contestants and that the only thing that the sponsor can promise is that your entry will be given the identical, fair, careful attention of every other entry and that the prizes will be paid to the rightful winners.

It is our great desire to conduct this contest so fairly and so efficiently that whether you win as much as \$40,000.00 or whether you win no prize whatever, you nevertheless will always feel that FACTS Magazine did everything within its power to make the facts clear to you, and to give you a full, fair, honorable opportunity to win.

Your present eligibility to compete for the prizes as previously offered will be in no way affected by whether or not you elect to become eligible to compete for the increased prizes up to \$40,000.00 referred to in this letter.

Trusting that this contest may result in your entire pleasure and satisfaction, consistent with fairness to one and all, we remain

Very sincerely yours,

FACTS MAGAZINE,
By JUDITH S. JOHNSON,
Contest Editor.

JSJ:R**.

Government's Exhibit 10-H

A DIVISION OF READ MAGAZINE, INC.

FACTS

THE MAGAZINE MORE FASCINATING THAN FICTION

PUBLISHED MONTHLY BY FACTS PUBLISHING COMPANY

Editorial and General Offices

75 WEST STREET, NEW YORK 6, N. Y.

August 16, 1945.

Mrs. ADELE M. BECKMAN.

5838 Einright, St. Louis, Mo.

DEAR MRS. BECKMAN: In accordance with my letter of August 15th, we are pleased to advise that we are forwarding to you under separate cover an Appendage for your Prize Eligibility Form.

We believe that contestants will be delighted to know that under the conditions set forth in the Appendage it is possible that First Prize winner will receive as much as \$40,000; Second Prize winner will receive as much as \$8,000; Third Prize winner \$4,000, with all 497 prizes being four times the amount originally offered.

The Appendage fully explains the above and will establish your status as well as that of all other contestants in the matter of Eligibility to compete for the maximum prizes.

Midnight, Saturday, August 25th, is the final deadline for mailing back the Appendage to us, and no increase in prize eligibility can be established if the Appendage is mailed to us after that hour. Therefore, please be certain that your Appendage is returned to us postmarked not later than midnight, Saturday, August 25th, 1945.

With all good wishes, consistent with fairness for one and all, we remain

Most sincerely yours,

FACTS MAGAZINE,
By **JUDITH S. JOHNSON,**
Contest Editor.

JSJ:R**.

A DIVISION OF READ MAGAZINE, INC.

FACTS

THE MAGAZINE MORE FASCINATING THAN FICTION

PUBLISHED MONTHLY BY FACTS PUBLISHING COMPANY

Editorial and General Offices

75 WEST STREET, NEW YORK 6, N. Y.

August 17th, 1945.

Mrs. ADELE M. BECKMAN,

5838 Enright, Apt. 203, St. Louis, Mo.

DEAR MRS. BECKMAN: Enclosed you will find the Appendage referred to in my previous letter.

Your signature is required on the upper portion of the first page, and you are to check either line (A), (B), (C), (D), or (E) on the same page. To obtain eligibility to compete for a First Prize of \$40,000, \$35,000, \$30,000, or \$25,000, your signature is also required at the bottom of the first page and in the proper space provided on the following pages.

Please sign and designate as required, and return the Appendage as promptly as possible, but not later than Midnight, Saturday, August 25th.

Before executing, please read this letter and the Appendage very carefully. Your present status in Section (E) entitles you to receive \$20,000 if you are the winner of First Prize. Your preference expressed in this Appendage will determine whether 1st Prize if won by you will be in the amount of \$40,000, \$35,000, \$30,000 or \$25,000 or whether any other prize if won by you will be increased proportionately.

As you will note by the Appendage, we have added an extra \$35,000 to the prize fund already established, and we now stand ready to pay you either \$40,000; or \$35,000; or \$30,000; or \$25,000; or \$20,000 if you become the winner of First Prize under the provisions of the Appendage. The sole determining factor in increasing the amount of a prize is the length of membership in our Book Club effective with the October book. As you know, you have already subscribed and paid for four months of membership beginning with the October book in accordance with your Eligibility Form, and thus you have already established your eligibility to compete for \$20,000 as First Prize.

By the provisions of the enclosed Appendix you can establish your eligibility to compete for a First Prize of \$40,000, \$35,000, \$30,000, or \$25,000 instead of \$20,000.

204 As specified in the Appendix, you would receive \$40,000 as First Prize if same is won by you if you continue your membership in the Book Club for eight months after the four months for which you have already paid.

Whether you wish to remain in the Book Club for eight months, six months, four months or two months longer is naturally something you must decide for yourself. As we said before, we stand ready to pay these huge added amounts to winners on the basis of the length of membership of the winners in the Book Club, our purpose in appropriating this large extra amount of money for prizes being to sell more of the Book Club books in order to obtain the advantages and economies that accrue from large production for a large membership.

In inviting contestants to compete for increased prizes through continuing to buy our Book Club books, we have this request to make. The request is simply this: Please do not spend your money for these books unless you really and truly want the books for your own home library, or for gifts to friends. In other words, we hope no contestant will buy the books merely for the purpose of increasing a prize, and we ask that no contestant spend more money for books than that contestant would normally expect to spend over a period of months for the purchase of similar books.

We want to be certain that the contestant who qualifies for eligibility to compete for \$40,000, \$35,000, \$30,000, or \$25,000 by purchasing the books of the Book Club truly WANTS the books he or she is buying and therefore feels that he is getting good books for the money spent irrespective of whether or not that contestant wins the highest prize of \$40,000 or wins no prize at all.

It is our belief that the classics published by the Literary Classics Book Club are distinguished by beautiful bindings, original introductions, superb art and typography. We believe these volumes are splendid cultural additions to a home library. In this spirit, we seek to sell our books only to persons who truly wish to own our classics and who under no circumstances will feel that they are spending money on something they do not want simply because the purchase involves eligibility to compete for cash prizes.

We also wish to make clear that you are not under any obligation whatever to lengthen your membership. You are now eligible to compete for any of 500 prizes of which First Prize is \$20,000. Whether you do or do not increase this eligibility to \$25,000, \$30,000, \$35,000, or \$40,000 will in no way have any effect on

whether or not you win First Prize or any other prize. Your decision to increase the amount of the prize for which you are eligible to compete cannot CAUSE you to win. It can only 205 increase the AMOUNT of a prize in case you become the winner of same. Winners will be selected solely in accordance with the rules on the basis of the final tie-breaking requirements of the contest as stated in my letter of August 15th in which I notified you that you had a score of 160 correct solutions and were tied with other contestants with the same score, and that the prizes would be awarded on the basis of the submissions to the final tie-breaking puzzles and if necessary the letter in accordance with the final tie-breaking requirements of the contest.

Please understand that there is no financial saving in prizes to us in the event no increased prizes are won, because any portion of the added \$35,000 which is not used in paying increased prizes will be used for extra prizes to be added after the 500th prize. Thus, the entire amount must be paid out by us in prizes in one form or another.

You will recall that I said in a previous letter that it would seem to me most unfortunate if any contestant who becomes a prize winner had failed to take fullest advantage of this opportunity to win the maximum prizes. If you win First Prize, it can mean the difference between receiving \$20,000, and receiving as much as \$40,000. As you will note in the Appendage, you can increase the length of your membership by two months, four months, six months or eight months. Each two months of increased membership is equivalent to an additional \$5,000 in the amount of First Prize. We believe that those contestants who value classic literature in beautiful bindings will be delighted with this opportunity.

Upon executing the enclosed Appendage, please mail same back to us by return mail if possible, using the enclosed self-addressed special envelope. Check or money order enclosed should be made payable to FACTS Magazine. The Appendage must be mailed before Midnight, Saturday, August 25th, to establish increased prize eligibility.

Awaiting receipt of your Appendage, with your designation of Section (A) or (B) or (C) or (D) or (E), and wishing you all success in the contest, consistent with fairness to all, we remain...

Most sincerely yours,

FACTS MAGAZINE,
By JUDITH S. JOHNSON,
Contest Editor.

JSJ:R**

Encls.

Government's Exhibit 10-J

**Memo to Contestant:

This Form Will Become Part of Your File. It Must be mailed by you before Midnight, August 25th, 1945, in order to be within time limits prescribed for increased Prize Eligibility.

APPENDAGE FOR FORM FOR SPECIFYING PRIZE ELIGIBILITY

Date _____

I, _____, a contestant in the Facts Magazine Puzzle Contest, residing at _____
(Street address)

(City)

(State)

am hereby executing this Appendage for Prize Eligibility Form in confirmation of the fact that I have been notified by Facts Magazine that all prizes originally offered in the Facts Magazine Puzzle Contest will be paid to those who become winners of same in amounts increased in value up to four times the amounts of the prizes as originally offered, with maximum First Prize being \$40,000.00, provided that those who become winners of same have submitted prior to Midnight, Saturday, August 25th, 1945, the requisite Book Club memberships as provided on Page Two of this Form; and I further confirm the fact that I have received notice from Facts Magazine by letter dated August 15th that I have a present score of 160 correct solutions and am now tied with other contestants who have the same present score, and pursuant to said letter defining my status and the requirements as specified in this Appendage, I wish to compete for prizes in accordance with the Eligibility as checked below. Therefore I do hereby say

That I desire eligibility to compete for

(A) \$40,000.00 first prize eligibility. All 499 other prizes quadrupled. (Fill in (A) on page 2.)

(B) \$35,000.00 first prize eligibility. All 499 other prizes multiplied by three and one-half times. (Fill in (B) on page 2.)

(C) \$30,000.00 first prize eligibility. All 499 other prizes tripled. (Fill in (C) on page 2.)

(D) \$25,000.00 first prize eligibility. All 499 other prizes multiplied by two and one-half times. (Fill in (D) on page 2.)

(E) \$20,000.00 first prize eligibility. All 499 other prizes doubled. (I have previously qualified for eligibility to compete for prizes herein stated.)

In order to be eligible to compete for the increased prizes as checked above, I have submitted on page (2) of this Form

207 (A)—one 8-month membership (\$40,000.00 Eligibility).

(B)—one 6-month membership (\$35,000.00 Eligibility).

(C)—one 4-month membership (\$30,000.00 Eligibility).

(D)—one 2-month membership (\$25,000.00 Eligibility).

I enclose herewith \$_____ in payment for same, in accordance with my instructions filled in on Page (2) of this Form.

Contestant Signature _____

(In Red.)

NOTE: This form must be mailed on or before Midnight, August 25th, 1945. All remittances are to be made payable to Facts Magazine.

208 (A) \$40,000.00 Eligibility (by continuing your Membership for 8 months)

(A) \$40,000.00 First prize eligibility (One 8-month membership required).

I wish to be eligible to compete for \$40,000.00 as First Prize, or four times the original value of any prize that may be won by me. I attach hereto in payment of the 8 books of the Literary Classics Book Club which are to be issued for the 8 consecutive months beginning with the Book of February 1946; (Check Which) \$24 as payment in full, or \$12, as the first payment and \$12 to be sent you next week. I have previously purchased and paid for the books for the four preceding months in accordance with my Eligibility Form. Send books to:

Name _____

Address _____

City _____ State _____

(B) \$35,000.00 Eligibility (by continuing your Membership for 6 months)

(B) \$35,000.00 first prize eligibility (One 6-month membership required).

I wish to be eligible to compete for \$35,000.00 as First Prize, or three and one-half times the original value of any prize that may be won by me. I attach hereto in payment of the 6 books of the Literary Classics Book Club which are to be issued for the 6

consecutive months beginning with the Book for February 1946; (Check Which) — \$18 as payment in full, or — \$12 as the first payment and \$6 to be sent to you next week. I have previously purchased and paid for the books of the four preceding months in accordance with my Eligibility Form. Send books to:

Name _____

Address _____

City _____ State _____

(C) \$30,000.00 eligibility (by continuing Your Membership for 4 Months)

(C) \$30,000.00 first prize eligibility (One 4-month membership required).

I wish to be eligible to compete for \$30,000.00 as First Prize, or an increase of three times the original value of any prize that may be won by me. I attach hereto \$12 in payment for the four books of the Literary Classics Book Club which are to be issued for the four consecutive months beginning with the Book for February 1946. I have previously purchased and paid for the books of the four preceding months in accordance with my Eligibility Form. Send books to:

Name _____

Address _____

City _____ State _____

(D) \$25,000.00 eligibility (by continuing Your Membership for 2 Months)

(D) \$25,000.00 first prize eligibility (One 2-month membership required).

I wish to be eligible to compete for \$25,000.00 as First Prize, or two and one-half times the original value of any prize that may be won by me. I attach hereto \$6.00 in payment for the two books of the Literary Classics Book Club, which are to be issued for two consecutive months beginning with the Book for February 1946. I have previously purchased and paid for the books of the four

preceding months in accordance with my Eligibility Form. Send books to:

Name _____

Address _____

City _____ State _____

209 Contestant's Signature _____

Address _____

City _____ State _____

210 *Government's Exhibit 10-K*

A DIVISION OF READ MAGAZINE, INC.

FACTS

THE MAGAZINE MORE FASCINATING THAN FICTION

PUBLISHED MONTHLY BY FACTS PUBLISHING COMPANY

Editorial and General Offices

75 WEST STREET, NEW YORK 6, N. Y.

August 18, 1945.

Mrs. ADELE M. BECKMAN,
5838 Enright, Apt. 203, St. Louis, Mo.

DEAR MRS. BECKMAN: At this moment when the hearts of the world are gladdened by the end of the War, permit me to take this opportunity on behalf of Facts Magazine to express our gratification to those who have participated in our contest and to voice the hope that your friendship for Facts, begun during World War II, will last through eternal years of peace.

It is in that spirit that we send this letter to you.

As you undoubtedly realize, Facts Magazine stands ready to pay as much as \$40,000.00 in cash to the winner of First Prize in our contest in accordance with the provisions in the Appendage forwarded to you yesterday.

Forty thousand dollars is truly a cash fortune. For many persons it can mean financial independence for life. For others, it can mean the money with which to buy a beautiful home, or a farm, or the money with which to start a business. Indeed, it is a cash prize of such huge amount, that it can bring tremendous happiness

to practically anyone who wins it. Facts wants to be certain that this opportunity does not bring unnecessary disappointment to our contestants whom we consider as our good friends.

Between now and Midnight of Saturday, August 25th, you have the problem of deciding whether you wish the eligibility to compete for the maximum amount of \$40,000, or whether the amount for which you wish to become eligible to compete shall be \$35,000, \$30,000, \$25,000 or a lesser amount.

Because the prize is so large, and because it can be such an important event in the life of the winner, it seems appropriate to emphasize once again the spirit in which we make it possible for you to win this large amount.

First, let me say that we hope you will decide to become eligible to compete for the maximum award that can be won in the contest, \$40,000, but at the same time we trust you will do so only if you really and truly want the Book Club books which you will receive for the money you pay.

211. We emphasize this point because, in order to become eligible to compete for \$40,000, \$35,000, \$30,000 or \$25,000 as First Prize, with all other prizes increased proportionately over the original amounts offered, it is necessary to buy and pay for the various Book Club books as specified in the Appendage. If you really want the books, either for your own home library or as gifts for friends, then we will feel that the money you pay for same is well and wisely spent. On the other hand, we do not want any contestant to purchase the books merely to become eligible to compete for the large prizes, without any desire to possess the books for their own sake.

The entire spirit of this letter is to prevent disappointment or ill will on your part in the event you do not win the prize on which you have set your heart. As we have said before, it is possible for you to win as much as \$40,000 under the provisions of the Appendage, and we hope you will decide to become eligible to compete for that maximum amount. But we want you to fully understand your status as defined in my letter of August 15th, and we want to discourage you from purchasing books that you really do not want merely because the purchase enables you to become eligible to compete for prizes up to \$40,000.

I am sure you understand that your eligibility to compete for the prizes as originally offered or for which you have already established eligibility is in no way affected by whether or not you decide to become eligible to compete for the maximum prize of \$40,000, or the lesser prizes of \$35,000, \$30,000, \$25,000, etc. We present the offer as a marvelous opportunity to those who sincerely want the Book Club books, and not as an obligation to any contestant in any sense of the word.

Permit me to point out once more that the Appendage must become part of your file in the contest, and must be mailed back to us, postmarked before Midnight, Saturday, August 25th.

As we said before, we hope you will decide to compete for the maximum prize that can be won, but we ask that you do so in the spirit of this letter. Our fondest hope is that at the end of the contest, irrespective of whether you receive a letter from us saying that we regret you did not win, or whether you receive a letter enclosing a check for \$40,000, or a lesser amount, you will always feel that you got full value in books for every penny you sent us, and that the contest was fine and fair in every way—and that you will always remain a true and lasting friend of

Very sincerely yours,

FACTS MAGAZINE,
By JUDITH S. JOHNSON,
Contest Editor.

JSJ:R**

212

Government's Exhibit 11-C

* * * *Memo to Contestant:*

This Form Must Become Part of Your File. Will You Please Fill In and Mail Same Within 5 Days After Receipt By You If Possible, (Or Earlier If You Can.)

FORM FOR SPECIFYING PRIZE ELIGIBILITY

Date _____

I, _____, a contestant in the FACTS MAGAZINE Puzzle Contest, residing at _____
(Street address)

(City)

(State)

in recognition of the fact that all prizes originally offered in the Facts Magazine Puzzle Contest will be paid to winners of same in amounts increased in value by one-half or doubled, provided that those winners of same have submitted the requisite Book Club memberships as provided on Page Two of this form prior to the conclusion of the contest and within the future final time limit which will be later specified by the sponsor, do hereby say

That I desire eligibility to compete for

(Check which)

(A-AA) \$20,000.00 first prize eligibility. All 499 other prizes doubled. (Fill in (A) or (AA) on Page 2.)

(B) \$15,000.00 first prize eligibility. All 499 other prizes increased by one-half. (Fill in (B) on Page 2.)

(C) \$10,000.00 first prize eligibility. (No increase in any prize, and no added membership required.)

In order to be eligible to compete for the increased prizes as checked above, I have submitted on Page 2 of this Form
(Check which)

----- (A) one 4-month membership (\$20,000.00 Eligibility).

----- (AA) two 2-month memberships (\$20,000.00 Eligibility).

----- (B) one 2-month membership (\$15,000.00 Eligibility).

I enclose herewith \$----- in payment for same, in accordance with my instructions filled in on Page 2 of this Form.

Contestant's Signature -----

Address -----

City ----- State -----

Your signature must also be signed at bottom of page 2 of this Form for \$20,000.00 or \$15,000.00 Prize Eligibility.

NOTE: This Eligibility Form must be filled in with names and addresses on Page 2 of same to qualify for \$20,000.00 or \$15,000.00 Prize Eligibility. Will you please mail same, together with whatever remittance should be attached, within 5 days after receipt by you if possible, or earlier if you can.

213 (A) \$20,000.00 eligibility (by continuing Your Membership for 4 Months)

(A) \$20,000 first prize eligibility (one 4-month membership required.)

I wish to be eligible to compete for \$20,000.00 as First Prize, or double the original value of any prize that may be won by me. I attach hereto \$12.00 in payment for the four books of the Literary Classics Book Club which are to be issued for the four consecutive months beginning with the Book for October, 1945. Send books to:

Name -----

Address -----

City ----- State -----

(AA) \$20,000.00 eligibility (by continuing Your Membership for 2 Months, and Sending In a 2-month Gift Membership)

(AA) \$20,000.00 first prize eligibility (two 2-month memberships required.)

I wish to be eligible to compete for \$20,000.00 as First Prize, or double the original value of any prize that may be won by me. I attach hereto \$12.00 in payment for the two books of the Literary Classics Book Club which are to be issued for the two consecutive months beginning with the Book for October, 1945, both of which books are to be sent to each of the two persons whose names are listed below.

Name _____

Address _____

City _____ State _____

Name _____

Address _____

City _____ State _____

(B) \$15,000.00 eligibility (by continuing Your Membership for 2 Months)

(B) \$15,000 first prize eligibility (one 2-month membership required.)

I wish to be eligible to compete for \$15,000.00 as First Prize, or an increase of one-half more than the original value of any prize that may be won by me. I attach hereto \$6.00 as payment in full for the two books of the Literary Classics Book Club which are to be issued for the two consecutive months beginning with the Book for October, 1945. Send the books to:

Name _____

Address _____

City _____ State _____

Contestant's signature _____

Address _____

City _____ State _____

Government's Exhibit 11-F

A DIVISION OF READ MAGAZINE, INC.

FACTS

THE MAGAZINE MORE FASCINATING THAN FICTION

PUBLISHED MONTHLY BY FACTS PUBLISHING COMPANY

Editorial and General Offices

75 WEST STREET, NEW YORK 6, N. Y.

August 16, 1945.

Mr. MARTIN WOHL,

3107 Cleveland Avenue, Washington 8, D. C.

DEAR MR. WOHL: In accordance with my letter of August 15th, it is now possible that the winner of First Prize will be paid either \$40,000; \$35,000; \$30,000; \$25,000; \$20,000; \$15,000; or \$10,000.

The provisions under which you, if you become the winner of First Prize, can receive as much as \$40,000 are fully set forth in an Appendage for the Prize Eligibility Form which I am now mailing to you under separate cover.

In connection with the original Prize Eligibility Form which we recently sent to you and which has not yet been returned to us, please be advised that in view of the fact that the Appendage which you will receive in the next day or so establishes Midnight, Saturday night, August 25th, as the final, official deadline for becoming eligible to compete for the increased prizes, and in addition, establishes the maximum amounts of the prizes themselves, therefore, only the Appendage need be filled in and returned to us by you.

We believe that contestants will be delighted to know that under the conditions set forth in the Appendage it is possible that First Prize winner will receive as much as \$40,000; Second Prize winner will receive as much as \$8,000; Third Prize winner \$4,000; with all 497 prizes being four times the amount originally offered.

The Appendage fully explains the above and will establish your status as well as that of all other contestants in the matter of eligibility to compete for the maximum prizes.

Midnight, Saturday, August 25th, is the final deadline for mailing back the Appendage to us, and no increase in prize eligibility can be established if the Appendage is mailed to us after that hour. Therefore, please be certain that your Appendage is returned to us postmarked not later than midnight, Saturday, August 25th, 1945.

With all good wishes, consistent with fairness for one and all,
we remain.

Most sincerely yours,

FACTS MAGAZINE,
By JUDITH S. JOHNSON,
Contest Editor.

JSJ: RO.

215

Government's Exhibit 12-A

A DIVISION OF READ MAGAZINE, INC.

FACTS

THE MAGAZINE MORE FASCINATING THAN FICTION

PUBLISHED MONTHLY BY FACTS PUBLISHING COMPANY

Editorial and General Offices

75 WEST STREET, NEW YORK 6, N. Y.,

July 3, 1945.

Special Notice and Puzzles Forwarded by Registered Mail

Mrs. A. D. MOTT,
Shell Rt., Greybull, Wyo.

DEAR MRS. MOTT: It gives me great pleasure to advise that you will be eligible to compete for any of 500 prizes up to \$10,000 in accordance with the Special Notice which is being enclosed with the puzzles being forwarded to you under separate cover by Registered Mail. The prizes for which you are eligible to compete are exclusively for those who did not submit 80 solutions correct in their entirety as explained in the Special Notice.

Special envelopes for mailing your solutions back to us as well as the dates for mailing same are included with the instructions printed with the puzzles, which will go forward to you by Registered Mail.

With all good wishes, I remain,
Sincerely yours,

FACTS MAGAZINE,
By JUDITH S. JOHNSON,
Contest Editor.

JSJ/sw.

SPECIAL NOTICE IN CONNECTION WITH TIE-BREAKING PUZZLES

Included With This Announcement 500 Added Prizes Will Be Awarded Exclusively to Those Contestants Who Did Not Submit 80 Correct Solutions to the First Group of Puzzles

Those contestants who correctly solved all 80 puzzles of the first group of 80 puzzles are now tied in the contest for the prizes as originally offered. Those contestants have been forwarded a tie-breaking group of puzzles as provided by the rules.

Highest Prize You Can Win Is \$10,000

Those who did not submit 80 correct solutions to the first group of puzzles, while not eligible to the prizes as originally offered, will nevertheless be eligible, in accordance with this notice, to compete for the added group of 500 prizes as listed at the right. The largest prize you can win is \$10,000.

Use the Special Envelopes Enclosed Herewith for Sending in Your Solutions

We enclose herewith the same puzzles now being sent to those contestants who correctly solved all 80 puzzles of the first group of 80 puzzles.

Three self-addressed envelopes are enclosed with this notice and puzzles. Please use these envelopes in sending in your solutions to the puzzles, making certain that your name and address are plainly printed in the upper left corner of the envelope.

By virtue of the fact that you did not submit 80 correct solutions, you are eligible to compete for the added prizes listed at the right. This is your status in the contest. Please understand clearly that you are not eligible to win any of the prizes as originally announced. Note that the largest prize that you can win in this competition is \$10,000.

In determining the winners of this added group of 500 prizes, the solutions to the first group of 80 puzzles will be ignored. With the exception above noted, all of the original rules and regulations governing the original contest, including the breaking of ties and the determination of winners will apply.

(Here Are the Added Prizes You Are Eligible To Compete for)

THE PRIZE

These additional prizes are exclusively for those contestants who did not submit 80 correct solutions to the first group of puzzles.

| | |
|---------------------------|-----------------|
| 1st Prize | \$10,000.00 |
| 2nd Prize | \$2,000.00 |
| 3rd Prize | \$1,000.00 |
| 4th Prize | \$500.00 |
| 5th Prize | \$250.00 |
| 6th Prize | \$250.00 |
| 7th Prize | \$250.00 |
| 8th Prize | \$150.00 |
| 9th Prize | \$100.00 |
| 10th Prize | \$100.00 |
| Next 90 Prizes each \$10. | \$900.00 |
| Next 400 Prizes each \$5. | \$2,000.00 |
| Total | \$17,500.00 |

Submit Your Solutions According to Dates Specified

The opportunity to win as much as \$10,000 is now before you. Please note carefully the dates for sending in your solutions as specified on the answer forms printed with the puzzles.

In conducting this contest, Facts has made every effort to maintain the good will and continued friendship of those who took part in the contest.

We hope that your participation in the contest will be a source of pleasure and pride to you.

A DIVISION OF READ MAGAZINE, INC.

FACTS

THE MAGAZINE MORE FASCINATING THAN FICTION

PUBLISHED MONTHLY BY FACTS PUBLISHING COMPANY

Editorial and General Offices

75 WEST STREET, NEW YORK 6, N. Y.

July 6, 1945.

Mrs. A. D. MOTT,

Shett Route, Greybill, Wyo.

DEAR MRS. MOTT: You will find enclosed herewith the Prize Eligibility Form mentioned in my previous letter.

This Prize Eligibility Form requires your signature in two places to enable you to become eligible to compete for as much as \$20,000 or \$15,000 as First Prize under the provisions of the offer, in accordance with the terms of the double-prize offer, and in addition, provides the necessary spaces for signifying acceptance of the terms of the offer.

This Form and any extensions applying to same must become a part of your file in the contest, and we will thank you to fill in same and mail to us within five days after receipt by you if possible, or earlier if you can do so.

As announced in my letter, we will pay the added prizes in doubled and increased amounts to those winners who qualify for same as per the requirements specified in the Eligibility Form or, in the event any portion of the added \$17,500 is not used in paying doubled and increased added prizes to the winners, then in extra prizes to be added to the 500 Prizes already provided.

Obviously, it would seem most unfortunate to me if, at the conclusion of the contest, it turns out that any winner had failed to take full advantage of this opportunity to win the doubled prize. To the 1st Prize winner it means the difference between receiving \$10,000, and receiving \$15,000 or \$20,000. To the 2nd Prize winner it means the difference between receiving \$2,000, and receiving \$3,000 or \$4,000. In every case it means receiving ONE AND ONE-HALF or TWICE the amount of the prizes specified in the Special Notice.

To be awarded double the amount of any prize you may win, the only requirement necessary is that you remain a member of the Book Club for the four-month period specified in the Form, or,

if you prefer, remain a member for the two-month period and give another two-month membership period to a friend. In case you merely continue your own membership for the two-month period specified, you become eligible to compete for \$15,000 instead of \$10,000. Payment for the book memberships is to be sent in with the Eligibility Form.

The enclosed Prize Eligibility Form specifies exactly what the increased value of First Prize will be if it should be won by you in case you continue in the Book Club for the two-month period, or the four-month period, as provided in the Eligibility Form. Gifts of Book Club memberships can be given to friends if you prefer. All of the 500 prizes will be increased in proportion.

218 At this point I would like to point out that your eligibility to compete for the prizes offered in the Special Notice remains the same regardless of whether or not you send in a continuation of your own memberships or send in any gift memberships. In other words, please understand that there is no obligation whatever. Instead, we consider it a marvelous opportunity. The sending in of the Book Club memberships cannot cause any contestant to win. It will merely INCREASE the amount of the prize that may be won.

The Prize Eligibility Form should be filled in and mailed back to us within five days after you receive same if possible, or earlier if you can do so. The special mailing envelope enclosed herewith should be used for returning the Prize Eligibility Form. Please enclose in the same envelope the proper remittance for the Book Club memberships you send in. We will appreciate it if you will mail back the Prize Eligibility Form to us as soon as possible, because, again, I would like to point out that it must become a part of your file in the contest.

We consider this a wonderful opportunity for the contestant and definitely not as an obligation. You are now eligible to compete for the prizes as itemized in the Special Notice, of which the First Prize is \$10,000.

The winning of these prizes, as explained clearly in the Special Notice, will be determined by the tie-breaking requirements of the contest as provided in the rules. We naturally do not know who will win the First Prize or the Second Prize or any prize at all for that matter. On the other hand, we do know positively that the amount of the First Prize will be either \$20,000, \$15,000 or \$10,000, depending on whether or not the winner, whoever the winner may be, submits the Book Club memberships as specified in the Eligibility Form. The same proportions increases apply to all other prizes offered in the Special Notice.

We would like to point out again that there is no financial saving in prizes to the sponsor in case no doubled or increased prizes as listed in the Special Notice are won, because any portion of the added \$17,500 which is not used in paying doubled and increased prizes will be used for extra prizes to be added after the 500th Prize. Thus, the entire amount must be paid out in prizes in one form or another.

Awaiting receipt of your Prize Eligibility Form in an early mail, and wishing you all success in the contest, consistent with fairness to all, believe me to be.

Most sincerely yours,

FACTS MAGAZINE,
By JUDITH S. JOHNSON,
Contest Editor.

JSJ:aw.
Encl.

219

Supreme Court of the United States

Order allowing certiorari

Filed April 28, 1947

The petition herein for a writ of certiorari to the United States Court of Appeals for the District of Columbia is granted, and the case is transferred to the summary docket.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

220

In the Supreme Court of the United States

Stipulation as to printing of the record

Filed August 19, 1947

Subject to this Court's approval, it is hereby stipulated and agreed by and between the attorneys for the respective parties hereto, that for the consideration of this case on the writ of certiorari to the United States Court of Appeals for the District of Columbia, granted April 28, 1947, the printed record may consist of the following:

I. Transcript of Record in District Court.

Pages

1-22 Complaint for Injunction.

24 Letter from Contest Editor, dated July 3, 1945 (Exhibit B to complaint).

25-26 Letter from Contest Editor, dated August 15, 1945 (Exhibit C to complaint).

27-29 Letter from Contest Editor, dated August 17, 1945 (Exhibit D to complaint).

30-31 Letter from Contest Editor, dated August 18, 1945 (Exhibit E to complaint).

32-34 Letter from Solicitor of Post Office Department, dated June 26, 1945, enclosing specification of charges (Exhibit F to complaint).

35 Fraud order issued by Postmaster General, dated October 1, 1945 (Exhibit G to complaint).

221 36-48 Affidavit of Henry Walsh Lee, dated October 2, 1945.

55-57 Affidavit of Vincent M. Miles, Solicitor of the Post Office Department, dated October 16, 1945, in opposition to motion for preliminary injunction.

68-89 Memorandum for the Postmaster General Embodying a finding of fact and recommending the issuance of a fraud order, dated September 17, 1945 (Exhibit A-8 to affidavit of Vincent M. Miles).

92-93 Affidavit of John J. Gregory, dated October 8, 1945.

94-95 Order of Justice Holtzoff, dated October 19, 1945, continuing stay.

96 Motion of the defendant to dismiss the complaint or, in the alternative, for summary judgment.

97 Affidavit of Daniel B. Maher in support of defendant's motion for summary judgment.

98-99 Plaintiffs' motion for summary judgment.

100-101 Affidavit of Leonard S. Melrod, dated October 19, 1945.

102-113 Opinion of Justice Holtzoff, filed November 15, 1945.

114-115 Order of Justice Holtzoff, filed November 27, 1945, continuing impounding order.

116-117 Judgment granting permanent injunction, filed November 27, 1945.

II. Printed Record used for purposes of petition for certiorari.

110 Minute entry of argument in Court of Appeals.

111-119 Opinion of Court of Appeals.

120 Judgment of Court of Appeals.

III. Transcript of proceedings before Solicitor of Post Office Department.

(1) Those parts of testimony of Post Office Inspector Francis D. Boyle set forth at pp. 86-105 of printed record before Supreme Court on petition for certiorari.

(2) Those parts of testimony of Paul Sarazen attached hereto which are found on pp. 136, 148-150 of the Transcript of Proceedings before the Solicitor of the Post Office Department.

222 IV. Exhibits introduced at hearing before Solicitor of Post Office Department.

Gov. Ex. 1-B Sunday News, April 1, 1945, p. 5.

Gov. Ex. 2 Advertising for All-American Puzzle Contest, appearing in "The American Weekly," August 16, 1942.

Gov. Ex. 2-A Advertisement for All-American Puzzle Contest appearing in Columbia, South Carolina, newspaper, "The State," August 16, 1942.

Gov. Ex. 2-E Form letter from Contest Editor.

Gov. Ex. 2-F Letter from Contest Editor, dated January 5, 1943.

Gov. Ex. 2-F-1 "Official Notice," containing tie-breaking puzzles, pp. 1 and 2.

Gov. Ex. 2-G Letter from Contest Editor, dated February 17, 1943.

Gov. Ex. 2-G-1 "Final Tie-Breaking Puzzles," p. 1.

Gov. Ex. 2-H Letter from Contest Editor, dated April 16, 1943.

Gov. Ex. 2-I Letter from Contest Editor, dated April 23, 1943.

Gov. Ex. 2-K-3 Form letter used in answering inquiries of contestants.

Gov. Ex. 2-J Announcement of winners of All-American Contest.

Gov. Ex. 3 Letter from Contest Editor.

Gov. Ex. 4 Letter from Contest Editor to "All Contestants."

Gov. Ex. 5 Letter from Contest Editor to "Dear Friend."

Gov. Ex. 6 Letter from Contest Editor to "Dear Friend."

Gov. Ex. 7, 7-A to 7-F Letter from Contest Editor to "Dear Friend" enclosing a mimeographed set of standard replies for the answering of questions asked by contestants.

Gov. Ex. 8 Letter from Contest Editor.

Gov. Ex. 9 Letter from Henry Walsh Lee to "Dear Contestant."

Gov. Ex. 10 Letter from Adele M. Beckman, dated August 28, 1945.

Gov. Ex. 10-C Letter from Contest Editor to Mrs. Beckman, dated July 3, 1945.

Gov. Ex. 10-D Letter from Contest Editor to Mrs. Beckman, dated July 5, 1945.

Gov. Ex. 10-E Letter from Contest Editor to Mrs. Beckman, dated July 6, 1945.

223 Gov. Ex. 10-F Letter from Mrs. Beckman to Contest Editor, dated July 12, 1945.

Gov. Ex. 10-G Letter from Contest Editor to Mrs. Beckman, dated August 15, 1945.

Gov. Ex. 10-H Letter from Contest Editor to Mrs. Beckman, dated August 16, 1945.

Gov. Ex. 10-I Letter from Contest Editor to Mrs. Beckman, dated August 17, 1945.

Gov. Ex. 10-J Appendage for form for specifying prize eligibility.

Gov. Ex. 10-K Letter from Contest Editor to Mrs. Beckman, dated August 18, 1945.

Gov. Ex. 11-C Form for specifying prize eligibility.

Gov. Ex. 11-F Letter from Contest Editor to Martin Wohl, dated August 16, 1945.

Gov. Ex. 12-A Letter from Contest Editor to Mrs. A. D. Mott, dated July 3, 1945.

Gov. Ex. 12-B Special announcement of contest for those contestants who did not solve correctly the original group of puzzles.

Gov. Ex. 12-D Letter from Contest Editor to Mrs. A. D. Mott, dated July 6, 1945.

V. Order granting certiorari.

VI. This stipulation.

It is further stipulated and agreed that the parties may refer in briefs and oral argument to any portions of the original transcript of record and exhibits filed with this Court which are not contained in the record as printed pursuant to this stipulation, in the same manner as if they had been printed in full.

Dated this 7th day of August 1947.

Philip B. Perlman,
PHILIP B. PERLMAN,
Solicitor General.

Dated this — day of August 1947

Burdette M. Asbill,
BURDETTE M. ASBILL,
Of counsel for Respondents.
By JOHN W. BURKE, Jr.,

[File endorsement omitted.]

[Endorsement on cover:] File No. 51972. U. S. Court of Appeals, District of Columbia. Term No. 50. Robert E. Hannegan, Individually and as Postmaster General of the United States, Petitioner vs. Read Magazine, Inc., et al. Petition for a writ of certiorari and exhibit thereto. Filed March 7, 1947. Term No. 50 O. T. 1947.